

MENDOCINO COUNTY PLANNING COMMISSION

MINUTES

OCTOBER 3, 2002

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

COMMISSIONERS PRESENT: McCowen, Barth, Nelson, Calvert, Little,
Berry, Lipmanson

COMMISSIONERS ABSENT: None

PLANNING & BLDG SVC STAFF PRESENT: Sandi Butterfield, Staff Assistant IV
Raymond Hall, Director
Frank Lynch, Chief Planner

OTHER COUNTY DEPARTMENTS PRESENT: Frank Zotter, Deputy County Counsel
Ben Kageyama, Dept of Transportation

1. Roll Call.

The meeting was called to order at 9:05 a.m. Commissioner Nelson arrived at 9:23 a.m.

2. Determination of Legal Notice.

Mr. Lynch advised the Commission that all items have been properly noticed. He also noted that there would be changes to today's agenda.

3. Director's Report and Miscellaneous.

Mr. Hall reviewed the written Director's Report submitted into the record. Mr. Hall discussed and handed out a flyer on an upcoming Caltrans workshop. He also noted an upcoming Regional Water Quality Control Board workshop. In response to Commissioner Lipmanson, Mr. Hall discussed the fines, conditions and the permit process for the CDP application for major vegetation removal in Fort Bragg. Commissioner Barth reviewed a Caltrans meeting she attended October 2 regarding the Ten-Mile Bridge project.

4. Consent Calendar.

Mr. Lynch noted that staff would request that Items 4B (#UR 6-1992/2002) and 4D (#UM 25-2000/2002) be removed from the Consent Calendar. He also noted that the agent for Item 5A (#CDMS 1-2001/#CDU 2-2001) has requested a continuance to November 7, 2002. Chairman McCowen requested that Item 4C (#UM 6-2001/2002) be removed from the Consent Calendar.

By order of the Chairman, Items 4B, 4C, and 4D were removed from the Consent Calendar.

The public hearing was declared open and subsequently closed when no one came forward to address the Commission.

4A. A 5-2002 – THRIFT – South of Point Arena

Request: Creation of a new Agriculture Preserve on a 94.36+- acre parcel that is currently used for livestock grazing.

Upon motion by Commissioner Lipmanson, seconded by Commissioner Berry and carried unanimously (6-0; Nelson – Absent), IT IS ORDERED that the Planning Commission recommend to the Board of Supervisors approval of #A 5-2002 finding the request is consistent with the General Plan and Mendocino County Code Section 22.08.050.

4. Consent Calendar (Continued).

By order of the Chairman, Items 4B, 4C, and 4D were removed from the Consent Calendar.

4B. UR 6-1992/2002 – PINOLI – Northwest of Philo

Request: Renewal of a major use permit for the continued use of an existing single-family residence for a two-unit Bed and Breakfast inn.

Mr. Lynch reviewed the staff report and correspondence.

Mr. Robert Jason Pinoli, agent for this application, stated that the Bed and Breakfast started in 1992 and consists of 2 units in an existing structure. He questioned if Geraldine Rose would have a conflict of interest since she has represented Robert and Cecilia Pinoli in the past. He noted that this is not a big hotel. He also stated that Geraldine Rose supported this project when she was on the Planning Commission. He discussed the concerns regarding the gate and the deer fence that now surrounds the entire property. He reviewed the single lane paved road to the Bed and Breakfast including all of the signage directing visitors to the facility. He noted that Raymond Pinoli does have a life estate on the property. He felt that Anderson Valley needs more overnight accommodations. He also stated that they only rented out the 2 units around 60 nights last year.

In response to Commissioner Barth, Mr. Pinoli noted that there is only one bed in each of the two units. He also described the confirmation letter that includes the property description, driving directions and maps showing the area.

The public hearing was declared open.

Ms. Geraldine Rose noted that she is the attorney representing Roederer Estates Inc. (adjacent property owner) and Mr. Raymond Pinoli (owner of the life estate of the subject property). She noted that in 1992 while she sat on the Planning Commission, she did recommend approval but the fact that the access road went through Roederer Estates was not clear. She stated there she has a letter dated August 25, 1997 from Michel Salgues with Roederer Estates that included three bids for the required road maintenance. Ms. Rose noted that payment was received in the middle of 2000. She noted that in the 1992 approval, there was no language regarding the right to farm. She handed out pictures showing how close the young vines are in relationship to the access road to the Bed and Breakfast. She also discussed the history of the property and lawsuits regarding the life estate of Raymond Pinoli. She also questioned if Robert and Cecilia had a right to obtain this use permit.

Commissioner Barth requested a map showing the adjacent properties and surrounding farm labor housing.

The Commission requested a recess in order for Mr. Zotter to address the Commission's concerns under ownership rights.

RECESS: 9:37 – 9:43 a.m.

Mr. Frank Zotter, Deputy County Counsel, noted that it is not always clear who has the rights to request entitlements for a property and felt that it would be all right to proceed with the application. He felt that the Commission should decide on the application with regards to the proposed use of the property.

Commissioner Lipmanson requested to know who was the grantee on the last deed.

Ms. Rose noted that there is a copy of the deed from 1996 in the Department of Planning and Building Services file.

Mr. Zotter noted that the court judgment did not include the right of the use permit.

Ms. Rose noted that Mr. Raymond Pinoli is a sheep rancher and harvests timber on the property. She handed out a document including Findings, Orders and Awards from an Arbitration Hearing dated July 23, 2002. She noted that Raymond Pinoli's hay storage is adjacent to the road to the Bed and Breakfast. She stated that through the Arbitration hearing, the hay storage would have to be moved. She handed out a picture showing the existing hay storage. She noted that Raymond Pinoli installed speed bumps around the farm labor housing because the Bed and Breakfast visitors were speeding on the access road.

Ms. Carre Brown, representing the Mendocino County Farm Bureau, spoke in opposition to the project. She also noted that the staff report does not include the right to farm language. She felt that the use is incompatible with the surrounding agricultural practices.

The public hearing was declared closed.

Mr. Robert Jason Pinoli stated that the Bed and Breakfast only occupies approximately 3 acres of the 101 acre ownership, which still has timber production, hay, cattle and sheep. He also reviewed a court judgment noting that the property was granted to Robert and Cecilia Pinoli with Raymond Pinoli as a life tenant. He noted that the road easement from Roederer Estate states that the easement shall be for any and all purposes. He stated that the letter with three bids for road maintenance was never received. He felt that they never denied anyone the right to farm. He noted that the title company made an error on the deed in 1991 removing Raymond Pinoli's life estate but that has since been rectified.

Commissioner Berry felt that this Bed and Breakfast is not compatible with the resource land.

Commissioner Calvert noted that she did not support this application in 1992 and felt that it is still incompatible with surrounding uses on the property. She felt that if the application was approved, that the right to farm language should be included.

In response to Commissioner Lipmanson, Ms. Rose noted that the only problem that still exists with Roederer Estates is the gate issue. She stated that Raymond Pinoli's issues include cutting through the fence to access the burn pile, spraying herbicides, and speeding through farm labor housing areas.

Chairman McCowen felt that the Bed and Breakfast has created a nuisance. He felt that they should have followed the good neighbor policy.

Upon motion by Commissioner Lipmanson, seconded by Commissioner Nelson and carried by the following roll call vote, IT IS ORDERED that the Planning Commission denies #UR 6-92/2002 noting the ongoing problems and incompatibility with surrounding agricultural practices.

AYES: Calvert, Barth, Berry, Little, Nelson, Lipmanson, McCowen
NOES: None
ABSENT: None

The Commission recommended that language regarding the right to farm and a time limit be added if the application was appealed.

**4C. UM 6-2001/2002 – GOLDEN RULE CHURCH ASSOCIATION/EDGE WIRELESS –
Between Willits and Redwood Valley**

Request: Modify a previously approved wireless communications facility permit to add a 30+-horsepower standby generator and 499-gallon propane fuel tank for use during power outages.

Mr. Lynch reviewed the staff report.

Mr. Alan Waters, Edge Wireless, agent for the application, noted that they are almost complete with the buildout for the wireless phone system in the County. He stated that this request was to install a generator and propane tank for emergency purposes only. He also noted that Edge Wireless did not anticipate this tower to be a major microwave hub backup.

In response to Chairman McCowen, Mr. Waters noted that a 499-gallon tank should last about two weeks.

Commissioner Berry noted that with a larger tank there would be fewer deliveries for propane.

The public hearing was declared open.

Mr. Adam Freeman noted that Commissioner Calvert questioned the use of a generator at the initial hearing. He felt that wireless communication companies are trying to install towers piece by piece to sneak projects through the process to avoid environmental review.

The public hearing was declared closed.

Mr. Waters stated that the tower was designed for fiber optic cable. Since the tower has been built, Pacific Bell has notified Edge Wireless that the fiber optic cable would not be available. He also noted that wireless data transfer should be available on the Laughlin tower in about a year.

In response to Chairman McCowen, Mr. Waters noted that the road is all weather.

Commissioner Calvert stated that the nearest residence is about ½ mile. She noted that there is a condition for a muffler to be placed on the generator.

Upon motion by Commissioner Berry, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED that the Planning Commission adopts a Negative Declaration and approves #UM 6-2001/2002 making the following findings and subject to the following conditions of approval:

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

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project that cannot be adequately mitigated through the conditions of approval; therefore, a Negative Declaration is adopted.

Department of Fish and Game Findings: The Planning Commission has evaluated the Initial Study and other information pertinent to the potential environmental impacts of this project and finds that, based upon the scope of the proposed development and location, the project will not have any adverse impact upon wildlife or the habitat upon which wildlife depends and, therefore, the Commission has rebutted the presumption set forth in subdivision (d) of Section 753.5.

Project Findings: The Planning Commission approves #UM 6-2001/2002 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.
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.
3. That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL:

1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game administrative filing fee required or authorized by Section 711.4 of the Fish and Game Code is submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$25.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to October 18, 2002. 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 project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
2. This permit shall become effective after all applicable appeal periods have expired, or appeal processes have been exhausted, and after any fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Department of Planning and Building Services. Failure of the applicant to make use of this permit within 2 years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
3. A muffler shall be installed and maintained in good working order on the generator engine exhaust system.

4. 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.
5. All conditions imposed in conjunction with approval of #U 6-2001 by the Planning Commission on October 4, 2001 remain in effect, and where applicable, shall be conditions of #UM 6-2001/2002 as well.
6. 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.
7. 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.
8. 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.
9. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following:
 - 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 being conducted so as to be detrimental to the public health, welfare or safety or to be a nuisance.
 - d. That a final judgment of a court of competent jurisdiction has declared one or more of the conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more of the conditions.

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

10. This permit is issued without a legal determination having been made upon the number, size or shape of the 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.

AYES: Nelson, Barth, Lipmanson, Little, Calvert, Berry, McCowen

NOES: None

ABSENT: None

RECESS: 10:35 – 10:48 a.m.

4D. UM 25-2000/2002 – YOUNCE/EDGE WIRELESS – Southwest of Ukiah

Request: Modification to a previously approved wireless communications facility use permit to add a 30+- horsepower standby generator and a 499-gallon propane fuel tank for use during power outages.

Mr. Lynch reviewed the staff report.

Mr. Alan Waters, Edge Wireless, agent for the application, noted that this request was to install a generator and propane tank in emergency purposes only. He also noted that Edge Wireless did not anticipate this tower to be a major microwave hub backup.

The public hearing was declared open.

Mr. Adam Freeman stated that he is the nearest neighbor to this tower and voiced concerns about looking onto an expanding antenna farm. He felt that there should be proper environmental review for impacts regarding all of the towers in this area. He felt that the review should be for the cumulative impacts and not for individual projects. He also voiced concerns with noise from the proposed generator. He noted that this area already has two generators. He felt that an EIR should be prepared for the entire area. He handed out color photographs and displayed large maps of the existing site.

Commissioner Barth asked about California Department of Forestry's (CDF) defensible space requirements for this application.

Mr. Claude Brooke questioned about brush clearing on his adjacent property. He also noted that he has no easement to his land.

The public hearing was declared closed.

Mr. Waters submitted new specifications for the generator and noted that it would be the quietest generator possible. He stated that when he submitted the original application, he submitted specifications that met Air Quality requirements. He noted that the generator would be located in an all weather enclosure.

In response to Chairman McCowen, Mr. Waters stated that the communication site has never been fenced because of the terrain. Mr. Waters stated that the pole was painted in two colors to meet Federal Aviation Administration (FAA) requirements. Mr. Waters also confirmed that the existing pole referenced in the original application contained only Christmas lights and not a "communications facility".

The Commission discussed a requirement for Edge Wireless to contribute to the road association and CDF defensible fire space requirements.

Mr. Lynch noted that with technology changing daily, it is difficult for wireless communication companies to anticipate certain possible issues.

Chairman McCowen stated his concerns that the original application may have been accomplished by fraud, since there was no pre-existing communications facility. The pole as constructed was more visible to the valley and this was compounded with the painting scene. He stated that a comprehensive review of all the facilities would be appropriate before adding more.

Upon motion by Commissioner Lipmanson, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED that the Planning Commission adopts a Negative Declaration

and approves #UM 25-2000/2002 making the following findings and subject to the following conditions of approval:

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

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project that cannot be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

Department of Fish and Game Findings: The Planning Commission has evaluated the Initial Study and other information pertinent to the potential environmental impacts of this project and finds that, based upon the scope of the proposed development and location, the project will not have any adverse impact upon wildlife or the habitat upon which wildlife depends and, therefore, the Commission has rebutted the presumption set forth in subdivision (d) of Section 753.5.

Project Findings: The Planning Commission approves #UM 25-2000/2002 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.
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.
3. That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL:

1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game administrative filing fee required or authorized by Section 711.4 of the Fish and Game Code is submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$25.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to October 18, 2002. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
2. This permit shall become effective after all applicable appeal periods have expired, or appeal processes have been exhausted, and after any fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Department of Planning and Building Services. Failure of the applicant to make use of this permit within two years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
3. A muffler shall be installed and maintained in good working order on the generator engine exhaust system.

4. 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.
5. All conditions imposed in conjunction with approval of Use Permit #U 25-2000 by the Planning Commission on December 7, 2000 remain in effect, and where applicable, shall be conditions of #UM 25-2000/2002 as well.
6. 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.
7. 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.
8. 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.
9. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following:
 - 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 being conducted so as to be detrimental to the public health, welfare or safety or to be a nuisance.
 - d. That a final judgment of a court of competent jurisdiction has declared one or more of the conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more of the conditions.

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

10. This permit is issued without a legal determination having been made upon the number, size or shape of the 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.
11. The applicant shall comply with those recommendations in the California Department of Forestry letter of May 24, 2002 or other alternatives as acceptable to the Department of Forestry (CDF# 257-02). Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.
12. Noise as measured at 250 feet from the generator shall be a maximum 55 dBA/ldn.

13. The holder of the entitlement shall contribute a fair share amount to the road maintenance organization, either directly or through the property owner.

AYES: Nelson, Barth, Berry, Little, Calvert, Lipmanson
NOES: McCowen
ABSENT: None

The Commission discussed the possible need for a more comprehensive look into towers in this area.

5. Regular Calendar.

5A. CDMS 1-2001/CDU 2-2001 – PEIRCE – South of Fort Bragg (Continued from 8/1/2002)

Request: Coastal Development Minor Subdivision to create two parcels of 10 acres each, and a remainder parcel of 20 acres. The proposed subdivision includes a request for an exception to access easement requirements. Coastal Development Use Permit to address issues within the Planned Development Combining District, including establishment of building envelopes for future residential development, development of roadways, creek crossing and establishment of riparian buffers.

Chairman McCowen noted that the agent for this application has requested a continuance to November 7, 2002.

Commissioner Barth requested that staff provide the Commission with photographs of the existing culvert. She asked if there were any problems in past rainy years that showed that the culvert was inadequate. In response to Commissioner Barth, Mr. Lynch noted that he believes the culvert is 36 inches wide. He also stated that staff would take pictures of the culvert and the terrain. He noted that the applicant is in the process of obtaining the fourth or fifth botanical survey on the property.

Mr. Lynch noted that he would try to coordinate individual site views for any Commissioners who were interested.

Upon motion by Commissioner Barth, seconded by Commissioner Calvert and carried unanimously, IT IS ORDERED that the Planning Commission continue #CDMS 1-2001/#CDU 2-2001 to the November 7, 2002 hearing.

5B. MS 19-2001 – RUFF – In Hopland

Request: Minor Subdivision creating two parcels of 5,000 square feet and 6,250 square feet. Also, an Exception to Mendocino County Code Section 17-48.5(A)(1)(e)(i) requesting a 14 1/2 foot wide access easement.

Mr. Lynch updated the Commission since the last hearing and a Memorandum dated October 3, 2002.

Mr. Jim Ronco, agent for the application, noted that the tentative map has been replaced and shows the appropriate easement widths and the reference to the Town of Hopland.

The public hearing was declared open and subsequently closed when no one came forward to address the Commission.

Commissioner Calvert questioned if the tenants in the residential housing were notified that the driveway was changing directions.

Mr. Richard Ruff, owner, stated that the neighbors have been using the driveway as two-lane traffic. He also noted that there have not been any accidents with this driveway.

Commissioner Calvert noted that the intensity would be increased. Mr. Lynch discussed the parking requirements for commercial and residential use.

Upon motion by Commissioner Lipmanson, seconded by Commissioner Nelson and carried by the following roll call vote, IT IS ORDERED that the Planning Commission adopts a Negative Declaration and approves #MS 19-2001 making the following findings and subject to the following 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, a Negative Declaration is adopted.

Department of Fish and Game Finding: The Planning Commission has evaluated the Initial Study and other information pertinent to the potential environmental impacts of this project and finds that, based upon the existing development on the subject parcel and surrounding parcels, the project will not have any adverse impact upon wildlife or the habitat upon which wildlife depends and, therefore, the Commission has rebutted the presumption set forth in subdivision (d) of Section 753.5.

General Plan Findings: Pursuant to Section 66473.5 of the California Government Code, the Planning Commission finds the proposed subdivision, together with the provisions for its design and improvement is consistent with the applicable goals and policies of the General Plan.

Exception Findings: The Planning Commission grants the request for an exception to Mendocino County Code Section 17-48.5 (A)(l)(e) finding that:

- A. There are special circumstances or conditions affecting the proposed division of land.
- B. The granting of the exception will not be detrimental to the public welfare or injurious to surrounding property.

Project Findings: The Planning Commission, making the environmental and General Plan findings above, approves #MS 19-2001, subject to the following conditions of approval as recommended within the staff report, further finding:

Pursuant to California Government Code Section 66445(e) the Planning Commission finds that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement.

CONDITIONS OF APPROVAL:

For a Minor Subdivision which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map/Unilateral Agreement.

ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.

1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game 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 \$25.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to October 4, 2002. 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 project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
2. The subdivider shall comply with those recommendations in the Department of Forestry letter of February 20, 2002 or other alternatives as acceptable to the Department of Forestry #CDF 21-02. Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.
3. The subdivider shall comply with those recommendations in the State Department of Transportation letter of February 6, 2002 or other alternatives acceptable to them. Written verification shall be submitted to the Department of Planning and Building Services that this condition has been met to the satisfaction of Caltrans.
4. There shall be provided a looped access easement, with access easement widths of 14 1/2 feet on the south side, and 20 feet on the west and north sides (as per tentative map) from a publicly maintained road to each parcel being created. In addition, reciprocal access easements for the looped driveway shall be granted to APN 048-290-12, and APN 048-290-14. Documentation of access easements shall be provided to the Mendocino County Department of Transportation for their review prior to final approval.
- ~~4. There shall be provided an access easement of minimum 14 1/2 feet in width (as per tentative map) from a publicly maintained road to each parcel being created. In addition, reciprocal access easements for the looped driveway shall be granted to AP# 48-290-12 and AP# 48-290-14. Documentation of access easements shall be provided to the Mendocino County Department of Transportation for their review prior to final approval.~~
5. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record or a minimum of ten (10) feet, whichever is greater.”
6. If a Parcel Map is filed, all natural drainage and watercourses shall be shown as easements on the final parcel map. Minimum width shall be twenty (20) feet, or to the high water level plus five (5) feet horizontal distance, whichever is greater. (All parcels 5 acres and less)
7. Applicant shall furnish and install a standard 36 inch R11 (DO NOT ENTER) sign, along with five pavement directional arrows (minimum 2.5 feet wide by 6 feet long) in accordance with Caltrans Standard Specifications and the Driveway Marking and Signing Plan, to the satisfaction of the Department of Transportation.

AYES: Barth, Berry, Little, Nelson, Lipmanson, McCowen
NOES: Calvert
ABSENT: None

RECESS: 12:02 – 1:40 p.m.

5C. UM 26-93/2002 – CROWN CASTLE INTERNATIONAL – North of Laytonville

Request: Modification of use permit to allow the construction of a 12 foot by 15-foot equipment shelter and to mount one 3-inch GPS antenna and three additional 15-foot omni antennas to an existing 20-foot monopole at an existing telecommunications facility, for a total of six 15-foot omni antennas at the facility. Total project height of 35 feet will not be increased.

Mr. Lynch reviewed the staff report and correspondence.

Mr. Clarence Chavis, Planner for Crown Castle, representing the application, noted that this application is to request three additional omni antennas that are the same size of the existing antennas, the placement of an equipment shelter, and to replace the existing generator.

In response to Commissioner Lipmanson, Mr. Chavis stated that the three additional antennas would provide digital service for cellular phones. He noted that the additional antennas would not replace the analog service.

In response to Chairman McCowen, Mr. Chavis mentioned that Crown Castle owns the tower but leases space to cellular phone companies. Mr. Chavis noted that currently there is one provider on the site because the tower is only 20 feet tall and probably could not house additional carriers.

The public hearing was declared open.

Ms. Marcie Miller stated that she owns property surrounding this tower. She felt that the tower was too close to the school and was not a good land use for this area. She noted that the conditions of the original use permit prohibited the use of herbicides because of the risk of contaminating the ground water for the neighboring school. She stated that she has “weed-eated” the Crown Castle property before because she had fears of fire danger. She felt that Crown Castle has never participated in vegetation removal. She stated that Crown Castle and their subcontractor have driven off the access road and damaged her property. She also voiced concerns with noise from the generator.

Commissioner Little noted that the tower is approximately ¼ mile from the school.

Ms. Frieda Feen expressed concerns what there was no public input when the tower was modified or designed. She also expressed concerns about radiation.

The public hearing was declared closed.

Mr. Chavis felt that the existing site is approximately ½ mile from the school. He also noted that he was not aware of any herbicide use on the property. He also stated Crown Castle does not work on PG&E poles.

In response to Chairman McCowen, Mr Chavis noted that the existing pole could not be stealthed or retro-fitted to look like a tree. He also stated that Crown Castle would like to keep the current pole.

Commissioner Calvert expressed concerns with the herbicide use and the term limit. She noted that with the herbicide condition and a short time period, she could support the application.

Commissioner Little noted that there is a documented case where this tower saved a woman's life. He stated that radio coverage in this area is poor. He felt that this tower provides a good service to the people using the highway.

Commissioner Nelson asked if trees and bushes could be planted to lessen the impact on the neighboring property.

Mr. Chavis noted that the generator is for emergency purposes only except for monthly testing.

Upon motion by Commissioner Little, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED that the Planning Commission adopts a Negative Declaration and approves #UM 26-98/2002 making the following findings and subject to the following conditions of approval:

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project that cannot be adequately mitigated through the conditions of approval; therefore, a Negative Declaration is adopted.

General Plan Consistency Finding: The proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

Department of Fish and Game Findings: The Planning Commission has evaluated the Initial Study and other information pertinent to the potential environmental impacts of this project and finds that this project is essentially a minor expansion and addition of existing development on the subject parcel, and the project will not have any adverse impact upon wildlife or the habitat upon which wildlife depends, therefore, the Commission has rebutted the presumption set forth in subdivision (d) of Section 753.5.

Project Findings: The Planning Commission further finds:

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being 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.
3. That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL:

1. This permit shall become effective after all applicable appeal periods have been expired or appeal processes exhausted. Failure of the permittee to make use of this permit within two years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit. This permit shall expire on October 3, ~~2004~~ 2012. The applicant has sole responsibility for renewing this permit before the expiration date listed above. The County will not provide a notice prior to the expiration date.

2. The applicant shall obtain all permits required by, and comply with, all conditions and requirements established by the Mendocino County Air Quality Management District. Proof of all such authorization(s) shall be submitted to the Department of Planning and Building Services prior to issuance of this use permit.
3. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game 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 \$25.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to October 18, 2002. 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 project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
4. No herbicides shall be used to control vegetation on this site.
5. The generator shall be oriented and screened to limit excessive noise from the closest neighboring receiver, and shall be enclosed by a noise barrier designed by an acoustical engineer.
6. The applicant shall not enter into a lease that precludes possible co-location. The applicant shall make available unutilized space for co-location of other antennas and equipment, including space for competing communication services providers.
7. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the facility, and to require no more than a reasonable charge for shared use.
8. Written verification from the Federal Aviation Administration that all necessary clearances have been obtained from that agency shall be submitted to the Department of Planning and Building Services prior to issuance of any building permits.
9. Roads constructed or improved to provide access to a communications facility shall be provided with drainage facilities sufficient to convey storm runoff to natural drainage channels without erosion.
10. The generator shall be equipped with a muffler and spark arresters, and shall not produce noise levels exceeding 50 dBA at 250 feet at the nearest off site residence ~~between the hours of 7:00 a.m. and 10:00 p.m. or 40 dBA between the hours of 10:00 p.m. and 7:00 a.m. (per Appendix C: Exterior Noise Limit Standards of the Mendocino County Zoning Code)~~. Routine testing and maintenance shall be limited to weekdays between 8:30 a.m. and 4:30 p.m. The generator shall be used for emergency use only and tested no more than one day per month.
11. An identification sign for each company responsible for operation and maintenance of facilities at the site, not larger than two square feet, shall be posted at a location from which it can be easily read from outside the perimeter of the communications facility, and shall provide the name, address, and emergency telephone number of the responsible company.
12. Antennas and antenna towers 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. Costs of the inspection and report shall be borne by the applicant.
13. Equipment buildings and enclosures shall be equipped with automatic fire extinguishing systems acceptable to the California Department of Forestry and Fire Protection.
 14. Communications facilities intended to provide services for the benefit of the general public during an emergency shall be designed to survive possible storm or seismic events without interruption of service.
 15. The applicant shall incorporate reasonable security measures to prevent unauthorized access or vandalism to the communications facility.
 16. The applicant shall comply with those recommendations in the California Department of Forestry letter of March 21, 2002 or other alternatives as acceptable to the Department of Forestry (CDF# 220-02). Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.
 17. The applicant shall secure applicable building permits for the project.
 18. The project shall comply with the applicable provisions of the California Building Code, California Electrical Code, California Plumbing Code, California Mechanical Code, California Fire Code, and rules and regulations imposed by state and federal agencies.
 19. The wireless communications facility, by itself and in combination with other nearby communications facilities, shall comply with the Federal Communications Commission's limits for human exposure to radio frequency electromagnetic fields.
 20. Existing trees and other vegetation which will provide screening for the proposed facility and associated access roads shall be protected from damage during and after construction. 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.
 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 along with applications for building permits. In consultation with Planning and Building Services, the applicant shall place the structure in the least publicly visible location within the fenced enclosure.
 22. If use of any portion of a communications facility is discontinued for more than one year, such portion of the facility no longer in use, above grade, shall be completely removed from the site, and disused portions of the site shall be restored to a natural-appearing condition.
 23. 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.
 24. No signs, other than those required or necessary for operation of a communications facility shall be displayed on site.

25. All exterior lighting fixtures shall be designed and/or located so that only indirect non-glaring light is visible from beyond the parcel boundaries. Exterior lights shall be turned off except when in use by facility personnel.
26. Prior to issuance of any building permits for the project, 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 carrier abandons operations or fails to comply with requirements for removal of facilities.
27. 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.
28. The use and occupancy of the premises shall be established and maintained in conformance with the provision so Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
29. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission.
30. That this permit be 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.
31. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

32. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

AYES: Nelson, Barth, Calvert, Little, McCowen
NOES: Lipmanson
ABSENT: Berry

RECESS: 2:47 – 2:59 p.m.

Chairman McCowen passed the gavel to Vice-Chairman Little for the discussion on the Draft Grading Ordinance.

5D. Grading Regulations.

Mr. Hall provided a brief summary of the process to date. He noted that the Commission would review Watercourse – Class I and Watercourse – Class II at a later date.

The Commission discussed different options of which Department would be the Permitting Agency.

Mr. Hall noted that no department currently has the resources or personnel to implement a Grading Ordinance.

Sec. 18.030.050 – Administration^{1 2.}

It was the consensus of the Commission to modify Sec. 18.030.050 – Administration (4-2; McCowen and Lipmanson – Opposed; Berry – Absent) as presented in the Draft Grading Regulations to read:

The Permitting Agency Agencies shall be responsible for the administration of this chapter, processing and issuance of grading permits, and inspection of grading work, except as otherwise provided by this chapter, as follows: for Agricultural Grading the Permitting Agency shall be the Office of the Agricultural Commissioner; for Engineered Grading for roads, reservoirs and ponds the Permitting Agency shall be the Department of Transportation; and for all other grading the Permitting Agency shall be the Department of Planning and Building Services.

Sec. 18.030.060 – Flexibly in Attaining Compliance

It was the consensus of the Commission to modify Sec. 18.030.060 – Flexibility in Attaining (6-0: Berry- Absent) as presented in the Draft Grading Regulations to Read:

Applicants shall be granted flexibility in achieving the standards set forth in this chapter. Where approved by the Permitting Agency, methods and materials other than those specified in this chapter may be substituted, provided that the change will achieve the same or better result or meet or exceed the required standard.

Sec. 18.030.070 – Grading Permit Requirements^{3.}

A lengthy discussion ensued regarding a firebreak exception. There were concerns of tree cutting and riparian areas being damaged. It was the consensus of the Commission to have staff develop language for a firebreak exception.

Commissioner Berry rejoined the Commission at 3:43 p.m.

In response to Commission Barth, Mr. Hall felt that there would be one section of definitions, which would apply to grading regardless if there was more than one Permitting Agency.

1 Refer to Appendix C for an alternate option of administering agricultural grading.

2 Refer to the Grading Committee Minutes of March 28 in Appendix H for votes regarding who should be the Permitting Agency.

3 Refer to Appendix C for an alternate ordinance for agricultural grading.

By order of the Chair (Vice-chair Little), Commissioner Calvert was authorized to provide alternative language for Section 18.030.070(B) at the next meeting.

Commissioner Lipmanson expressed support to start at Section 18.030.280 – Roads, Driveways and Parking Areas at the next hearing. He felt that the Commission was not moving at a fast rate due to issues with the agricultural portion of the ordinance.

It was the consensus of the Commission to continue the Draft Grading Regulations and start with Section 18.030.280 – Roads, Driveways and Parking areas to the October 17, 2002 hearing, not to be heard before 10:00 a.m.

Vice-Chairman Little passed the gavel back to Chairman McCowen for the remainder of the meeting.

6. Matters from Staff.

None.

7. Matters from Commission.

Commissioner Calvert asked about the mounds of dirt on Albion Ridge Road. Mr. Hall noted that he would give her a report at the next meeting.

8. Approval of Minutes.

Upon motion by Commissioner Calvert, seconded by Commissioner Nelson and unanimously carried (7-0), IT IS ORDERED that the Minutes of September 5, 2002 are approved with the following corrections:

- Page 5, 2nd Paragraph: “Commissioner Nelson ~~asked~~ ~~questioned~~ if the Commission could limit second residential units.”
- Page 10, 2nd Paragraph: “Mr. Steven Hall, Friends of the Navarro Garcia, discussed...”
- Page 18, 4th Paragraph: “Commissioner Calvert stated that timber property not under a Non-Industrial Timber Management Plan and between Timber Harvest Plans might not be exempt from the regulations.”
- Page 20, 3rd Paragraph: “Ms. Carre Brown stated that the Farm Bureau recommends deleting deleting ...”

Upon motion by Commissioner Nelson, seconded by Commissioner Barth and unanimously carried (7-0), IT IS ORDERED that the Minutes of September 19, 2002 are approved with the following corrections:

- Page 2, 2nd Paragraph: “Commissioner Nelson asked about ~~questioned~~ the height of the telephone poles ...”
- Page 8, 10th Paragraph: “Commissioner Lipmanson asked ~~questioned~~ if Coastal Land Division Finding Number 6 ...”
- Page 12, 6th Paragraph: “He also noted that the road improvements were done when the property was previously for sale before the owner wanted to subdivide.”

- Page 12, add after 15th Paragraph: “Commissioner Calvert stated that she would not be supporting the project because it is at the end of a long dead end road with a high fire hazard potential, high erosion potential and no public utilities, although she recognized that the applicants have certain expectations based on the zoning.”
- Page 21, 7th Paragraph: “Such inspections include those ~~that~~ performed by persons supervised...”
- Page 22, 14th Paragraph: “~~It was the~~ It was the consensus ...”
- Page 22, 16th Paragraph, change the sentence to read: “It was the consensus of the Commission to hold the recommendation of the definitions of Watercourse – Class I and Watercourse – Class II until the Commission considers the Agricultural Chapter.”
- Page 23, 2nd Paragraph: “It was the consensus of the Commission to hold the recommendation of the definitions of Watercourse – Class IV, Watercourse, Class IV, Watercourse Corridor, Winter Grading and Winter Period until the Commission considers the Agricultural Chapter.

9. Matters from Public.

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

10. Adjournment.

Upon motion by Commissioner Calvert, seconded by Commissioner Berry, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourned at 4:38 p.m.



MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON: October 15, 2009

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

COMMISSIONERS PRESENT: Little, Calvert, Nelson, Warner, Holtkamp, Hall, Ogle

COMMISSIONERS ABSENT: None.

PLANNING & BLDG SVC STAFF PRESENT: Ignacio Gonzalez, Director
Frank Lynch, Chief Planner
Dusty Duley, Planner II
John Speka, Planner II
Adrienne Thompson, Commission Services Supervisor

OTHER COUNTY DEPARTMENTS PRESENT: Terry Gross, Deputy County Counsel
Dennis Slota, Water Agency

1. **Roll Call.**

The Planning Commission began with a site view of the proposed Kunzler Terrace Mine project (Case # U 4-2008) at 9:00 AM and then convened in the Board Chambers at 10:36 AM to conduct the public hearing. Commissioner Little arrived at 10:38 AM and was unable to attend the site view.

2. **Determination of Legal Notice.**

Mr. Lynch advised the Commission that all items had been properly noticed.

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

Mr. Gonzalez commented that the Board would be discussing prioritizing potential projects, including long range planning projects such as the Mendocino Town Plan, UVAP and implementation of the General Plan. Mr. Gonzalez stated he would then bring the list of projects forward to the Planning Commission.

Mr. Lynch noted the Board Of Supervisors had approved the Gardens Gate subdivision without the requirement of an Emergency Vehicle Access and, in lieu, the subdivider had added sprinklers to all buildings. He noted the Board had stated the subdivider could seek access south or to Highway 253, was allowed to develop the 3 lots in contention and that no improvements were required along Oak Knoll Road; instead a cost estimate of the improvements to develop a sidewalk from Oak Knoll to Dora would be calculated and sidewalk improvements along South State Street would be developed in lieu.

4. **Consent Calendar.**

Chairman Nelson asked if any member of the Commission would like to discuss the Consent Calendar, seeing no one indicate a desire to speak, the Chairman opened the public hearing.

Seeing no one come forward, the public hearing was declared closed.

Chairman Nelson noted that, carried by a voice vote of (7-0), IT IS ORDERED to approve the Consent Calendar as follows:

4a. CASE#: UM 6-2001/2009

DATE FILED: 6/8/2009

OWNER: GOLDEN RULE CHURCH ASSOCIATION

APPLICANT: OMNIPOINT COMMUNICATIONS (T-MOBILE)

AGENT: EAGLE CONSULTING GROUP LLC - ALLEN POTTER

REQUEST: Use Permit Modification to allow for the addition of 3 panel antennas and 1 microwave dish to an existing 140 foot tall telecommunication tower and placement of a battery backup power system, a GPS antenna and 4 equipment cabinets within a 4,800 square foot leased area.

LOCATION: 5+/- miles northwest of Redwood Valley town center, lying 1.2+/- miles east of State Highway 101, 1.4+/- miles south of its intersection with Black Bart Drive (CR 370), located at 161 North Highway 101; AP# 106-150-34.

PROJECT COORDINATOR: DUSTY DULEY

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan.

Environmental Findings: The Planning Commission finds that the project is Categorically Exempt from CEQA, Class 1b.

Project Findings: The Planning Commission approves Use Permit Modification #UM 6-2001/2009, 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.
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.
3. That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL:

1. As soon as practical following completion of any earth disturbance, vegetative ground cover equal to or better than existing shall be reestablished on all disturbed portions of the site.
2. Temporary erosion control measures shall be in place at the end of each workday and shall be maintained until permanent protection is established.
3. The operator of the existing generator shall contact the County Air Quality Management District as to the need to obtain a permit from the District.
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 shall be turned off except when in use by facility personnel.
5. Existing trees and other vegetation, which provide screening for the 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.
6. All exterior surfaces of structures and equipment associated with the communication facility shall have subdued colors and non-reflective materials selected to blend with their surroundings.
7. If use of any portion of the proposed facility subject to this permit is discontinued for more than one year, all those parts of the facility not in use, above grade, shall be completely removed from the site.

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 applicant's equipment in the event that the applicant abandons operations or fails to comply with requirements to remove all their equipment.
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 any archaeological discoveries have been satisfied.
10. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site. If requested, public agencies shall be permitted to collocate their facilities.
11. 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 an exterior wall 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.
12. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower. The intent is that Federal safety requirements will be met with the least visual impact from public locations.
13. 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.
14. Prior to commencement of operations, all surplus construction materials and debris shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.
15. The applicant shall contact the County Division of Environmental Health as to the need to obtain a Hazardous Material Business Plan for the battery power system.
16. 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.
17. 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.
18. That this permit be 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.
19. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

20. 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.
21. 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.
22. This permit is issued for a period of ten years, and shall expire on October 15, 2019. 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. Previous Use Permit entitlements #U 6-2001 and #UM 6-2001/2004 expiration dates shall be modified to October 15, 2019 as well.

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

4b. CASE#: U 10-2009

DATE FILED: 6/8/2009

OWNER: VIRGINIA MEADOWS TTEE

APPLICANT: OMNIPOINT COMMUNICATIONS / T-MOBILE

AGENT: EAGLE CONSULTING GROUP / ALLEN POTTER

REQUEST: Use Permit to allow for the addition of 3 panel antennas and 3 microwave dishes to an existing 150 foot tall telecommunication tower and placement of a battery backup power system, a GPS system and 4 equipment cabinets within a 2,000 square foot leased area.

LOCATION: 3+/- miles southwest of Hopland on a private road 1.5+/- miles southwest of its intersection with CR 110, 1.5+/- miles southeast of its intersection with Feliz Creek Road (CR 109), located at 4655 Road 110; AP# 049-240-25.

PROJECT COORDINATOR: DUSTY DULEY

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

Environmental Findings: The Planning Commission finds that the project is Categorically Exempt from CEQA, Class 1b.

Project Findings: The Planning Commission approves #U 10-2009 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.
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.
3. That such use preserves the integrity of the zoning district.

RECOMMENDED CONDITIONS:

1. As soon as practical following completion of any earth disturbance, vegetative ground cover equal to or better than existing shall be reestablished on all disturbed portions of the site.
2. Temporary erosion control measures shall be in place at the end of each workday and shall be maintained until permanent protection is established.

3. The operator of the existing generator shall contact the County Air Quality Management District as to the need to obtain a permit from the District.
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 shall be turned off except when in use by facility personnel.
5. Prior to development of the site the applicant shall provide to the Department of Planning and Building Services, an assessment prepared by a registered civil engineer of the condition of the existing private road, serving the site to provide baseline data on the condition of the road. The assessment may include photos or video but shall include a written narrative to document the road's current status. Any damage to the road associated with construction activity shall be repaired to an "as is" or better condition.
6. The facility shall provide, if requested, space for any emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.
7. Existing trees and other vegetation, which provide screening for the 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.
8. All exterior surfaces of structures and equipment associated with the communication facility shall have subdued colors and non-reflective materials selected to blend with their surroundings.
9. If use of any portion of the proposed facility subject to this permit is discontinued for more than one year, all those parts of the facility not in use, above grade, shall be completely removed from the site.
10. 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 equipment in the event that the applicant abandons operations or fails to comply with requirements to remove all their equipment.
11. 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 any archaeological discoveries have been satisfied.
12. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site. If requested, public agencies shall be permitted to collocate their facilities.
13. 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 an exterior wall 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.
14. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.
15. 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.

16. Prior to commencement of operations, all surplus construction materials and debris shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.
17. The applicant shall contact the County Division of Environmental Health as to the need to obtain a Hazardous Material Business Plan for the battery power system.
18. 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.
19. 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.
20. That this permit be 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.
21. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

22. 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.
23. 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.

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

5. **Regular Calendar.**

5a. **CASE#: U 4-2008 (Kunzler Terrace Mine) Site View First**

DATE FILED: 3/18/2008

OWNER/ APPLICANT: GRANITE CONSTRUCTION COMPANY

REQUEST: The project applicant, Granite Construction Company (Granite), has submitted an application to obtain approval of a conditional use permit/surface mining permit, reclamation plan, and financial assurances pursuant to the California Surface Mining and Reclamation Act (SMARA) and the Mendocino County Surface Mining and Reclamation Ordinance (Chapter 22.16) to excavate approximately 30.3 acres. The total amount of marketable material proposed for extraction is estimated at 3.37 million tons over a 20 year period with an additional five years to complete reclamation activities. Average yearly extraction would be 100,000 to 250,000 tons per year depending on market demand. The proposed project would operate year-round, Monday through Saturday, with normal operating hours of 5:00 AM to 7:00 PM. A combination of wet and dry excavation would be used and the crushing operation will average 1000 cubic yards per day with a maximum of approximately 3500 cubic yards per day. The majority of the mined material would be hauled to either Granite's North State Street Plant for use in asphalt concrete or Granite's Talmage Processing Plant for Portland Cement concrete production. Some aggregate may be shipped directly to local private and public construction sites, agricultural users, homeowners, and other customers. The 45-day review period for the Draft Environmental Impact Report (DEIR) is from September 23, 2009 to November 6, 2009. If you have any comments regarding the adequacy of the DEIR, please submit them in writing to the Department of Planning and Building Services no later than **5:00 PM on November 6, 2009.**

LOCATION: The proposed project is located within the unincorporated area of Mendocino County, approximately one mile north of the City of Ukiah. The project site is located at 2175 Kunzler Ranch Road, Ukiah, California, southwest of the confluence of Ackerman Creek and the Russian River on Mendocino County Assessor's Parcel Numbers 170-150-09 & 170-160-03.

PROJECT COORDINATOR: JOHN SPEKA

Mr. John Speka, Project Coordinator, reviewed a power point presentation of the project and discussed the comment period for the Draft Environmental Impact Report. He noted no decisions would be made by the Planning Commission and all comments would be gathered for the EIR Consultant for the Final EIR hearing. He stated the end of the comment period was November 6, 2009 at 5:00 PM.

Mr. Gonzalez provided an overview of the SMARA process and discussed the reasons why the project was before the Commission.

Chairman Nelson asked if the financial assurance would increase over time, similar to a cost of living increase.

Mr. Gonzalez stated the cost of the financial assurance was recalculated as the reclamation was completed and analyzed for any areas of new disturbance based on the CPI and Caltrans Labor Surcharges to insure that the cost estimated was adequate.

Mr. Speka continued with his presentation of the project. He noted the property characteristics, existing truck shop, vineyards, Agwood Lumber, Russian River, Masonite/DDR site and the Rose Industrial Park. He also displayed several regional maps, an operation site map and discussed the location of the flood control weir that would connect to Ackerman Creek. He stated the environmentally preferred alternative was a hydraulic connection to the Russian River along the southeastern edge of the property providing access to an area of refuge for salmonids. He provided photos of Ackerman Creek and the surrounding areas and discussed the proposed operation, setbacks and size of the ponds. Mr. Speka discussed Phase 1 of the project with a drag line operation in the open space, placement of the weir, channel widening and improvements to Ackerman Creek and Russian River; Phase II would begin in the southern portion; and, Phase III would entail the entire proposed area for use. He discussed grading proposed at the site, the vegetation plan for restoration and riparian work in the 150 foot and 250 foot setbacks from the creek and river. He stated that upon final reclamation, the pond would remain, again noting that the preferred alternative was the southeast connection and not the weir. Mr. Speka noted several potential impacts including, hydrology, fish habitat/capture, traffic impact to Kunzler Ranch Road (a private road) and North State Street, road structure, ground water from depth of mining and potential impact to wells in the area, cultural resources and the conversion of agricultural lands to other uses.

Mr. Gonzalez commented that the project was somewhat new to the Commission and discussed the definition of a "Terrace Mine", noted the resources under the vineyard and commented that the excavating would turn the site into an open space and habitat area.

Chairman Nelson asked if the applicant would like to speak.

Jordan Main, applicant with Granite Construction Company, noted the site view earlier in the day and thought the presentation was not necessary. He was available for questions.

Commissioner Holtkamp asked about the potential loss of bird habitat from the proposed project and removal of trees along Ackerman Creek.

Mr. Main discussed flood plain benching and noted that a biologist had identified the significant trees to remain during the project. He also stated there was some flexibility regarding the removal of trees and during each proposed phase of reclamation revegetation would be completed at a 3:1 ratio, thus he did not anticipate any significant loss of habitat for birds.

Commissioner Hall noted fish would remain in the pond due to the slope of the sides and asked if there were benches within the pond.

Mitchell Swanson, Hydrologist, stated he had prepared the benching and hydro plan for the DEIR and discussed the finished grades of the project. He noted there would be seasonal vegetation planted; however the pond was not a spawning ground.

Commissioner Hall thought it was probable that some fish would not make it out of the ponds.

Mr. Swanson discussed fish history from the National Marine Fisheries office (NOAA) and stated the pond design was recommended by NOAA.

Commissioner Holtkamp was concerned with the possibility of the pond fostering a mosquito population.

Mr. Swanson noted the surface water would circulate, but stated he was not a mosquito expert.

Mr. Main noted that Granite did have similar ponds at other project sites in Mendocino County, which did not have a mosquito problem.

Commissioner Little asked if the ponds would be available for water storage or use in case of emergency and if there was an analysis as to the acre feet available to local fire districts.

Mr. Main noted that was a possibility since several existing ponds had been used during the Lightning Fires, but an analysis had not been completed.

Commissioner Little noted the location within the railroad corridor and asked if an analysis had been prepared to use the railroads for transport of materials.

Mr. Main was not sure if an analysis had been completed, but suspected that since the railroad was not currently active; the possibility of transport had not been included in the EIR.

Commissioner Little commented that the use of the railroad could potentially impact the analysis of the traffic impacts in the EIR and provide an alternative.

Commissioner Warner asked about the difference of locations between the weir and the alternative connection.

Mr. Swanson felt the difference in location was an engineering decision because a weir was not subject to erosion.

Commissioner Holtkamp asked if the property would be available for public access upon final reclamation or if Granite would retain ownership.

Mr. Main noted that Granite would retain ownership of the parcel.

The public hearing was declared open.

Paul Wisniewski, SCS Engineers representing Masonite, expressed concern with the project and stated that the description as a "terrace mine" was inaccurate and should be changed to a flood plain mine. He felt the location within the flood plain merited additional studies and questioned whether the studies used were accurate, coming from the perspective of a terrace mine versus the flood plain. He stated concerns with potential for flooding, inundation of water, pit capture, severe impacts to fisheries, adequate setbacks from top of bank and noted a document prepared by Philip Williams and Associates that recommended a 1,000 foot setbacks from active channels. He also noted that in Sonoma County, the standard setback from active rivers was 450 feet. He was further concerned that the setbacks had not been fully assessed in the document and the presence of the proposed mine could devalue adjacent parcels, noting that DDR was concerned with the proposed activities. Mr. Wisniewski was also concerned with the water quality impacts and particles from the project that would occur from the dredging activities and the amount of sediment that could interfere with domestic water wells on the Masonite property. He felt further studies were needed to protect the wells and ensure that they were not adversely impacted by the proposed project. He discussed the

estimated three foot drop in ground water levels and stated the EIR did not adequately address seasonal fluctuation of water levels, requiring additional analysis and studies before such a project could be approved.

Steven Ford, Department of Transportation, noted he had spoken to the applicant and requested mitigation for traffic at the intersection of North State Street and Kunzler Ranch Road. He asked that either a signal on the County road or a roundabout be considered for safety concerns. He also clarified that Kunzler Ranch Road was private and not County maintained.

Linda Taverner, SCS Engineers and Project Manager for Masonite, stated that the Masonite property had not been "abandoned" as the public speculated, and would be submitting a grading plan in hopes of continuing a commercial industrial use.

Dennis Slota, Water Agency, commented that he had reviewed the project and had concerns with pit capture and the weir design for long term maintenance. He noted the river connection was the superior alternative and thought the fundamental design of the benching was valid. He commented that the discussion of water quality in the EIR was too general and was surprised by the conclusion that it was not a significant impact. Mr. Slota was concerned with sedimentation during the benching process and before the vegetation stabilized the area, noted hydro seeding might not be able to withstand the stress of inundation and would like further details on the process. He was interested in monitoring the turbidity during the various construction phases and felt the SWPPP measures were not directed towards monitoring. He did conclude that the mining technique proposed was superior to instream mining and stated further comments would be submitted by the Water Agency.

The public hearing was declared closed and the Commission was asked to comment.

Commissioner Little commented that he would like to see a discussion of the viability of using the railroad for transportation of the materials and as an alternative to traffic. He also commented that he was heartened to hear that Masonite was concerned with the environment and hoped their future applications would demonstrate their commitment to protecting the environment.

Commissioner Warner commented that she enjoyed the science of the EIR and asked that "TAC" be add to the list of acronyms. She was also concerned with the particulate matter on page 3.3-2 and asked if she had misread the chart.

Mr. Main noted that the figures were correct and the poor air quality was due to the Lighting Fires of 2005.

Commissioner Ogle asked that "LOS" from table ES-1, page 3.12.2 be added to the list of acronyms and noted she could not find a definition of the word anywhere in the EIR.

Mr. Speka noted LOS referred to the Level of Service.

Commissioner Hall suggested that a page of definitions be added to the EIR.

Commissioner Ogle discussed table ES-13, impacts 3.83 and 3.85 and asked how the water demand, damage to wells and water quality could be deemed less than significant.

Brian Grattidge, Project Manager for Environmental Science Associates (ESA), noted all comments would be addressed in the Final EIR and stated that the potentially significant and less than significant impacts were analyzed by scale. He noted that the findings for ground water impact were less than significant, but that should not be confused with a finding of no affect.

Commissioner Holtkamp felt it was important to understand the hydro section for future planning and discussed the upper aquifer; inquiring about rebound during increased draw down, drought and post drought.

Commissioner Hall discussed the monitor for raptors and osprey and thought it was not likely that work would be halted if the operation was driving away the birds.

Mr. Grattidge noted there were two parts to the preconstruction survey of raptors and if a nest was found, the applicant must consult with the Department of Fish & Game to establish a buffer to prevent upsetting the birds. He felt there was a large enough area that work could be done without endangering wildlife or habitat.

Tony Shaw, Granite Construction Company, discussed other terrace mines in Ukiah and noted the quality of the birding experience. He commented that the Ukiah Daily Journal had published an article praising the restoration of sites as a benefit to wildlife habitat.

Chairman Nelson asked how the alternative connection was designed, if there was any erosion potential and how ESA could be sure that the connection would flood 100 days per year.

Mr. Swanson discussed the alternative and noted the connection channel would be a geotech style to grow vegetation and would be a width and depth to slow the velocity of the water. He noted that the 100 day flood calculation was based upon an average percent received from data at the NOAA office.

Seeing no other Commissioner request further comments and noting that the applicant did not have anything further to present, Chairman Nelson concluded the public hearing on the proposed Kunzler Terrace Mine project.

[Lunch 12:00 PM – 1:06 PM]

5b. CASE#: U 19-2008

DATE FILED: 10/29/2008

OWNER: THOMAS & BEVERLY BURGER

APPLICANT: ON AIR, LLC FOR VERIZON WIRELESS

AGENT: ALLEN FINK -ON AIR LLC

REQUEST: Use Permit to authorize construction and operation of a wireless telecommunication facility to support a wireless provider (Verizon Wireless), consisting of an 80 foot tall "monopine" (monopole designed to resemble a pine tree), 9 panel antennas, 2 GPS antennas, a 60 kilowatt diesel generator with a 210 gallon fuel tank and a 240 square foot equipment shelter.

LOCATION: 2 +/- miles northwest of Yorkville, lying on the north side of State Highway 128, 0.4 miles east of its intersection with Hibbard Road (CR# 121) located at 23901 Highway 128, Yorkville; AP#049-080-05 and 049-130-04

PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, Project Coordinator, reviewed the staff report and noted two letters had been received in support of the facility for cell service in the area. He discussed the request, location of the nearest offsite residence, access via private ranch road off Highway 128 and noted a new road would need to be constructed to the project site that was approximately 400 feet in length. Mr. Duley commented that conditions for erosion control, generator use and noise had been added and he noted that Verizon was concerned with Condition #8. He stated the applicant was asking that the first sentence be struck, which was at the Commission's discretion. He commented that the aesthetics were always a major issue and noted the simulation photos of the monopine on pages PC 22-26. Lastly, he noted that Conditions #1 and #4 could be deleted from the report while Condition #12 could use additional language.

Peter Hilliard, On Air LLC representing Verizon Wireless, commented on the balloon simulation and thought that due to the distance from the roadway, the monopine would not be noticed. He discussed the landscape requirement to hide the equipment, but felt landscaping was unnecessary due to the shrubbery around the proposed monopine and commented that only the top of tree should be visible. He discussed Condition # 17b, which required Verizon to revisit the site to ensure compatibility with the environment and thought that conditions should quell the fears of the Commission that the monopine might be an eyesore. Mr. Hilliard commented that the applicant would request that Condition #1 be deleted since it applied to water ways and noted that in Condition #6, the County mapped different areas of natural occurring asbestos than Air Quality Management had, but he did not have a concern with the condition. He was concerned with Condition #8 regarding the noise of the generator and noted that the nearest offsite residence was 1600 feet from site, which could be translated into less than 31 dBA of noise from the generator. He hoped to avoid having a structurally engineered sound wall built to suppress noise that was not an issue. He commented that the generator would be housed in an acoustic enclosure. Mr. Hilliard commented that he felt Condition #10 was too broad and should be deleted or revised to clarify that the collocation requested was for a

non-profit emergency services, not something like a radio station. Lastly, he requested that the second sentence of Condition #22 be deleted.

Chairman Nelson clarified that Mr. Hilliard would like to delete Condition #12.

Mr. Hilliard stated he would like Condition #12 deleted and asked that Condition #10 be modified so that the interpretation more clearly defines police and fire services.

Commissioner Holtkamp asked if the applicant would be removing trees if Condition #12 was deleted.

Mr. Hilliard stated that nothing would be removed, however the applicant would like to delete the condition so that nothing would have to be planted.

Commissioner Ogle asked if changing the wording in Condition #10 to state "first responders" or "EMS" would provide clarity.

Commissioner Little felt that inserting "public" would be sufficient to eliminate the confusion.

Commissioner Calvert and Commissioner Holtkamp disclosed that Verizon was their cell carrier.

Commissioner Calvert was concerned with a future replacement generator adhering to the noise barrier and preferred to keep Condition #22 as written.

Mr. Hilliard offered an alternative of deleting the first sentence and adding "Should a replacement generator be installed it must also meet the 50 dBA noise standards per the County's Wireless Guidelines."

Mr. Duley noted staff would suggest adding language that states, "if necessary a generator shall be enclosed by a noise barrier..." so the County had an option at a later date to impose the requirement for a noise barrier, moving the first sentence of the condition to read, "Generators shall be equipped with mufflers and spark arresters, and shall not produce noise levels exceeding 50 dBA at the nearest off site residence. If necessary, generators 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. 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."

Commissioner Calvert asked staff what their recommendation was concerning Condition #22.

Mr. Duley noted the last sentence was redundant and could be deleted from the condition.

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

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp and carried by the following roll call vote, IT IS ORDERED to approve U 19-2008 per the findings and conditions of approval contained in the staff report on pages PC 5 through PC 9, deleting Conditions #1, #4 and #12, modifying Condition #8 to read "Generators shall be equipped with mufflers and spark arresters, and shall not produce noise levels exceeding 50 dBA at the nearest off site residence. If necessary, generators 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. 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" , modifying Condition #10 to include "public" before emergency and deleting the last sentence from Condition #22.

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, 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 project can be adequately mitigated through conditions of approval and therefore the Commission adopts a Negative Declaration.

Project Findings: The Planning Commission approves #U 19-2008 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.
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.
3. That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL:

~~**1. All natural drainage and watercourses shall be considered as easements. Minimum width shall be twenty (20) feet, or to the high water level plus five (5) feet horizontal distance, whichever is greater. Such easements shall be recorded on the property deed.~~

**2. 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 1st.
- f. All earth-moving activities shall be conducted between May 15th and October 15th 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 m³) on any one lot and does not obstruct a drainage.
- **3. All antennas and the antenna tower shall comply with wind loading and other structural standards contained in applicable building and technical codes, industry codes, and manufacturer standards so as not to endanger the health and safety of residents, employees or travelers in the event of structural failure due to extreme weather conditions, seismic events or other acts of nature.
- ~~**4. 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.~~
- **5. All grading activities must comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.
- **6. 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 an Asbestos Dust Mitigation Plan and/or Geological Survey to comply with CCR sections 93106 and 93105 relating to naturally occurring asbestos. Written verification from the Air Quality Management District shall be submitted to the Department of Planning and Building Services stating that the project is in compliance with State and Local regulations relating to naturally occurring asbestos.
- **7. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game 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 \$2043.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to November 2, 2009, (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game 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.
- **8. ~~Generators 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. Generators 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.~~
"Generators shall be equipped with mufflers and spark arresters, and shall not produce noise levels exceeding 50 dBa at the nearest off site residence. If necessary, generators 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. 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."
- **9. 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 shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.
- **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. 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.

- ~~**12. A Landscaping Plan shall be submitted for review approval by the Director of Planning and Building Services and shall provide details as to the location, size and type of plantings. The plan shall include a landscape maintenance program to ensure the installation and maintenance of required landscaping. Vegetative landscaping shall include pine trees placed in a "random" pattern so as to appear more natural. The Landscape Plan must be approved by the Planning and Building Department prior to issuance of any building or grading permits. Failure to maintain landscaping shall be grounds for revocation of the use permit.~~
- **13. The total height of "monopine" including antennas will not exceed 80 feet in height above ground level. Within sixty (60) days of completion of the installation of the facility, the applicant shall perform a tape-drop to confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height.
- **14. 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.
- **15. 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.
- **16. 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.
- **17. A. Branches of the tree shall extend beyond the antenna and fully conceal the supporting structure and antennas.
- B. An evaluation of the facility's stealth capability 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.
- **18. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.
- **19. 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 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.
- **20. 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.
- **21. 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.

- **22. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site. ~~If requested, public agencies shall be permitted to co-locate their facilities.~~
- **23. Prior to issuance of a building permit the applicant shall contact the County Air Quality Management District as to the need to obtain a permit for the proposed generator.
24. 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.
25. 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.
26. 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.
27. 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.
28. 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.
29. This permit is issued for a period of ten years, and shall expire on October 15, 2019. 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.
30. 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.
- **31. The applicant shall comply with those recommendations in the California Department of Forestry and Fire Protection's Fire Safe Regulations Form (CDF# 375-08) or other alternatives as acceptable to the Department. Written verification shall be submitted from the Department of Forestry and Fire Protection to the Department of Planning and Building Services that this condition has been met to their satisfaction.

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

5c. CASE#: U 3-2009

DATE FILED: 1/30/2009

OWNER: CROWN, CASTLE COMPANY LLC

APPLICANT: OMNIPOINT COMMUNICATIONS (T-MOBILE)

AGENT: EAGLE CONSULTING GROUP- ALLEN POTTER

REQUEST: Use Permit to replace an existing 30 foot tall monopole with a wireless telecommunication facility able to support two wireless providers (T-Mobile and Verizon Wireless) consisting of a 65 foot tall "monopine" (monopole designed to resemble a pine tree), six panel antennas, one microwave dish and ground based equipment.

LOCATION: 9+/- miles north of Laytonville, lying on the north side of Spyrock Road (CR 323), 4.4+/- northeast of its intersection with State Highway 101, located at 3750 Spy Rock Road; AP# 056-310-18.
PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, Project Coordinator, reviewed the staff report and discussed the piles of correspondence received opposed to the project. He passed around a folder to the Commission received from the Spyrock Elementary School children and neighbors. He discussed past case history on the site, which was the subject of controversy, including arguments of health concerns, visual impacts, devaluation of property, and lack of investigation of alternative sites. He noted the photo simulations of the balloon fly on pages PC 27-31, but commented that due to the wind the balloon probably flew at 50-60 feet. He discussed the visibility of the pole from several sites and noted that the property owner had planted numerous trees around the site and watered the vegetation, leaving little room for additional landscaping. He noted the pole did not meet the 110% setback on all sides of the property and stated the RF study had been updated, staying within the guidelines established by the FCC.

Chairman Nelson noted the presence of AT&T antenna's on his property and asked County Counsel if he should chair the meeting.

Terry Gross, Deputy County Counsel, stated that if Mr. Nelson would benefit from the current transaction, he should recuse himself from the hearing; however, if he did not stand to benefit and did not have a signed agreement for a future transaction it was permissible to continue as the Chair.

Chairman Nelson commented that he did not have a signed agreement and would not benefit from the current project.

Allen Potter, Eagle Consulting representing T-Mobile, discussed the 110% setback from the property lines and read a section from the County's Wireless Guidelines stating an exception could be made to setbacks if the facility is proposed to be collocated with an existing facility. He commented that the purpose of the application complied with the Guidelines and reduced setbacks because it was a collocation with the replacement of an existing tower capable of accommodating multiple carriers. He also noted it was unusual to be dealing with a small parcel within a parcel and thought the reduction in setbacks could be approved. He discussed the aesthetics of the site and noted a monopine would be used, which should reduce visibility. He noted the approval of four similar applications, which used a monopine in rural residential areas to mitigate the aesthetics of the tower. He commented that the site provided an excellent opportunity for collocation and doubted the community would support any alternative site in the area. Like the previous applicant, Mr. Potter asked that the commission insert "public" before emergency in Condition #4.

Commissioner Little noted that the staff report stated there would be available space for additional users and asked why T-Mobile had proposed such a tall monopine, knowing the history of the site.

Mr. Potter discussed the location of the T-Mobile antennas at the 60 foot level to obtain the coverage advantage and noted a shorter monopine would not meet the coverage needs. He also noted that Verizon would be locating on the pole at a lower height.

Commissioner Little asked if T-Mobile would be proposing sites in Leggett or Cahto for additional coverage, noting that Verizon could operate at the 20 foot mark and asked if it was possible for T-Mobile to operate at a lower height.

Mr. Potter commented that he was not an engineer and could not answer the technical question. He noted there was a frequency difference between the equipment and stated that the application had been proposed at the minimum height for the minimum coverage capabilities.

Commissioner Little referenced page PC 2 under project description and asked why T-Mobile needed 6 equipment shelters.

Mr. Potter stated the description could more adequately be described as 6 metal cabinets and were not specifically shelters. He noted there was an existing shelter, however to reduce space and

clutter the applicant was proposing cabinets for the equipment. He also noted a correction to the report that only 3 antennas would be installed not the 6 antennas as referenced.

Commissioner Little asked if T-Mobile was actively marketing in the County.

Mr. Potter was not sure if T-Mobile was providing new service and noted the addition of antennas was to reduce roaming services.

Commissioner Holtkamp agreed that she would like to know if T-Mobile would be available for service in the County.

Mr. Potter stated he would send the information back to the Commission when he had the answer.

Commissioner Little asked if there were any towers proposed along the coast.

Mr. Potter stated several had been approved along with the potential for several new applications on Bald Hill Road, Ten Mile Road and within the City of Fort Bragg.

Commissioner Ogle noted the drawing on page PC 17 and asked if all monopines were the same.

Mr. Potter stated that no two monopines were the same. He agreed the older monopines resembled pipe cleaners.

The public hearing was declared open.

Tim Henry, teacher for Spyrock Elementary School, was opposed to the application but stated this was clearly not about "NIMBY" (not in my back yard) because the tower would not serve the community or neighborhood. He stated there was sufficient coverage and expanding the height would impact the school. He asked the Commission to request the applicant look for a new site that would benefit the community.

Marcia Miller, landowner around tower, was opposed to the application and noted that T-Mobile has not been responsive to her concerns that the existing trees would be cut down. She noted the tower was located on a vacant parcel that could be used for a residence and stated she would prefer the tower be moved out of the community.

Sarah Shelley, resident, was opposed to the application and felt that the parent group as a whole was opposed to the site. She did not want the school children near the tower.

Sheila Deveny, resident, was opposed to tower and its location near the school.

Alison Pernel was opposed to the application as a resident of Spyrock and stated she had excellent cell service. She commented that she worked from home by "telecommuting" and did not think the tower necessary. Also, as a future parent, she was concerned with the health impacts to the children attending the Spyrock Elementary School.

The public hearing was declared closed.

Mr. Potter responded to the public comment and felt the application should be pursued for the ability to collocate on an existing facility. He felt the design of a monopine would address the visual impacts and noted that there were no alternative sites within the search ring that could meet the coverage advantage. He was surprised that the community was not interested in T-Mobile as competition.

The Commission discussed the search ring from the handout that had been distributed by staff.

Commissioner Little was not convinced of the necessity for a 65 foot tower and suggested a monopine closer to 30 feet for consideration.

Mr. Potter was not sure a 30 foot tower would be acceptable with the little space between Verizon's antennas at the 20 foot height and T-Mobile.

Chairman Nelson commented he would be more comfortable with a tower that did not violate the setback requirements.

Mr. Duley commented that the maximum height of the tower to meet the setbacks would be 37 feet at the current location.

Mr. Potter asked if the Commission would consider a reduced height to 45 feet with the branches of the monopine extending to the 50 foot mark.

The Commission recessed to allow the applicant to confer with T-Mobile engineers.

[Break 3:11 PM – 3:25 PM]

Mr. Potter stated that after his discussion with T-Mobile, the engineers agreed that the reduced height was acceptable at 45 feet with an additional 5 feet for the branches. He stated the antennas would be mounted at the 40 foot level, the microwave dish at the 35 foot level and he had signed a revised application for the Commission's approval.

Commissioner Little commented he could accept the proposal that the total height would not exceed 50 feet and the tower height would be 45 feet.

Mr. Duley commented that the language in Condition #8 would be changed so that the branches did not exceed 50 feet and noted the applicant had requested the addition of "public" to Condition #4.

Upon motion by Commissioner Little, seconded by Commissioner Ogle and carried by the following roll call vote, IT IS ORDERED to approve U 3-2009 per the findings and conditions of approval contained in the staff report on pages PC 6 through PC 9, modifying Condition #8 to state, "The total height of the monopine including faux tree branches will not exceed ~~65~~ 50 feet in height above ground level", and inserting the word "public" before emergency in Condition #4.

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project that cannot be adequately mitigated through the conditions of approval; therefore, a Negative Declaration is adopted.

General Plan Consistency Finding: The proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

Project Findings: The Planning Commission further finds:

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being 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.
3. That such use preserves the integrity of the zoning district.

RECOMMENDED CONDITIONS:

- **1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game 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 \$2043.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to November

2, 2009 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game 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.**

2. No herbicides shall be used to control vegetation on this site.
- **3. 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 shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.
- **4. 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.
- **5. Prior to issuance of a building permit the applicant shall contact the County Division of Environmental Health as to the need to complete a Hazardous Materials Business Plan.
- **6.
 - a. Branches of the tree shall extend beyond the antenna and fully conceal the supporting structure and antennas.
 - b. An evaluation of the facility's stealth capability 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.
- **7. 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.
- **8. The total height of the monopine including faux tree branches will not exceed ~~65~~ **50** feet in height above ground level. Within sixty (60) days of completion of the installation of the facility, the applicant shall perform a tape-drop to confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height.
- **9. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower. All signage shall be located and designed to have the least visual impact possible. The intent is that Federal safety requirements will be met with the least visual impact from public locations.
10. 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.
- **11. 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.

- **12. 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.
13. The applicant shall not enter into a lease that precludes possible co-location. The applicant shall make available unutilized space for co-location of other antennas and equipment, including space for competing communication services providers.
14. By commencing work allowed by this permit, the applicant and tower owner agrees to negotiate in good faith with third parties requesting shared use of the facility, and to require no more than a reasonable charge for shared use.
- **15. An identification sign for each company responsible for operation and maintenance of facilities at the site, not larger than two square feet, shall be posted at a location from which it can be easily read from outside the perimeter of the communications facility, and shall provide the name, address, and emergency telephone number of the responsible company.
- **16. Antennas and antenna towers 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. Costs of the inspection and report shall be borne by the applicant.
- **17. Equipment buildings and enclosures shall be equipped with automatic fire extinguishing systems acceptable to the California Department of Forestry and Fire Protection.
18. 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.
- **19. The wireless communications facility, by itself and in combination with other nearby communications facilities, shall comply with the Federal Communications Commission's limits for human exposure to radio frequency electromagnetic fields.
20. The use and occupancy of the premises shall be established and maintained in conformance with the provision so Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
21. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission.
22. That this permit be 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.
23. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
- a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

24. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
25. This permit is issued for a period of ten years, and shall expire on October 15, 2019. 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.
26. 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.

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

6. Matters from Staff.

There were no matters from staff.

7. Matters from Commission.

Commissioner Ogle noted she had listened to the tapes of the September 17, 2009 meeting and had trouble hearing several Commissioners on the tape. She reminded everyone to make sure their microphone was on and to speak clearly for the record.

8. Approval of Minutes.

Commissioner Calvert submitted corrections to the September 17, 2009 minutes.

Upon motion by Commissioner Hall, second by Commissioner Calvert and carried by a voice vote of (6-0), with Commissioner Warner abstaining, the September 17, 2009 Planning Commission Minutes are approved.

9. Matters from Public.

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

10. Adjournment.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Calvert, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourned at 3:39 p.m.



MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON: July 19, 2012

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

COMMISSIONERS PRESENT: Little, Calvert, Nelson, Warner, Holtkamp, Hall, Ogle

COMMISSIONERS ABSENT: None

PLANNING & BLDG SVC STAFF PRESENT: Roger Mobley, Acting Director
Dusty Duley, Planner II
Adrienne Thompson, Commission Services Supervisor

OTHER COUNTY DEPARTMENTS PRESENT: Doug Losak, County Counsel

1. **Roll Call.**

The meeting was called to order at 9:02 a.m.

2. **Determination of Legal Notice.**

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

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

Mr. Mobley presented a verbal Director's Report and noted that 2 new employees had been hired; a coastal planner and inland code enforcement officer. He also noted that a planner had left the office, Jessica Stull-Otto, and moved to HHSA, so there would be another opening in the Ukiah to recruit for. Last, Mr. Mobley noted that there had been a draft contract written between the County and City of Point Arena to provide planning services.

4. **Regular Calendar.**

4a. CASE#: UM 3-2009/2012 (Continued from 6/21/2012)

DATE FILED: 3/12/2012

OWNER/ APPLICANT: CROWN CASTLE GT COMPANY LLC

AGENT: GARY GOCHBERG

REQUEST: Use Permit Modification to add one (1) 52.4 inch diameter microwave dish to an existing 45 foot tall "monopine" (monopole designed to resemble a pine tree).

LOCATION: 9+/- miles north of Laytonville, lying on the north side of Spyrock Road (CR# 323), 4.4+/- miles northeast of its intersection with State Highway 101, located at 3750 Spyrock Road; AP# 056-310-18.

PROJECT COORDINATOR: DUSTY DULEY

Dusty Duley, Project Coordinator, reviewed the staff report and discussed the project request to add one microwave dish to a 45 foot tall monopole. He noted the applicant's agent was present for discussion and was asking the Commission for approval with no conditions of approval. He noted a letter that had been distributed to the Commission regarding Crown Castle's interpretation of new legislation and read one letter from the public into the record.

Doug Losak, County Counsel, discussed the County's position regarding the new cell tower legislation that had been approved in early February or March. He stated that the new legislation did

not take the approval process away from the County and therefore stated the Commission had the ability to review and condition the modification as they saw fit; as long as they approved the modification.

Commissioner Hall clarified that the Commission had the ability to condition the modification.

Mr. Losak stated the Commission had the ability to condition the modification within the parameters of the law and modify an existing pole or base.

Commissioner Calvert asked about the ability to condition shared roads, trenching issues, etc that become issues in rural areas. She also asked about the ability to add the condition regarding cleaning up if the tower is abandoned.

Mr. Losak stated the Commission had the ability to add road, trenching conditions.

Commissioner Little noted the original tower conditions were set prior to the new law and asked if those conditions could be carried forward to the modification as conditions of approval. He did not think there would be an issue with carrying the conditions forward for future modifications because the conditions were placed on the tower.

Commissioner Hall asked the definition of substantial change, if that was 10% or more, etc.

Mr. Duley noted that staff was working on new guidelines and had discussed the potential to change the public hearing request to the Zoning Administrator level. He noted that staff was working to determine what substantial change was and hoped to have something included in the update to the guidelines.

Commissioner Ogle noted the Commission had been approving modifications on the Consent Calendar without discussion and was confused by the discussion taking place.

Mr. Duley noted that staff placed items on the consent calendar that were simple modifications, however the applicant asked that the item be pulled for discussion due to the new legislation.

Commissioner Little asked if there were any new conditions different from the original tower.

Mr. Duley noted the expiration was a new condition and there was also a new condition asking for a separate bond for removal of equipment if the tower was abandoned.

Commissioner Holtkamp noted that since the federal government had passed new legislation, she felt they should be the permitting agency for cell towers.

The Commission further discussed what was considered cumulative impacts.

John Dohm, Crown Castle owner/manager and agent for Verizon, noted Mr. Gochberg was present and available for questions as the individual that had submitted the application. Mr. Dohm agreed that nothing was clear in the new law, but commented that an administrative process of review which was sent directly to the building department for a permit is more in line with how the cell companies were interpreting the information. He thought that not having modifications heard by the Commission could "free up" the County and staff from a more stringent review if eligible facilities were simply approved upon meeting all submittal requirements. He agreed that the law does not prevent the County from reviewing an application, but commented that the review should only result in determination of the eligibility of the modification for approval.

Commissioner Little asked if there was anything in law that stipulates what the County process will be and what constitutes the definitions of modification. He noted, upon reviewing the information, that the law does not say how the County will make the determination of eligibility, therefore, the County could define the process by which to review the applications within the guidelines of the law.

Mr. Dohm agreed that the County had the ability to determine their own process, but also felt that if a facility was eligible and not a substantial change, it would have to be approved under the law.

Commissioner Little commented that most modifications could be approved administratively, but felt the County should reserve the right to make the decision as to what level the approval would be subject to. He asked if Mr. Dohm agreed that the conditions from the original tower permit should be carried forward with the modification.

Mr. Dohm concurred that the existing tower conditions would be carried forward to the modifications, but felt a step in the right direction would be to push modifications down to a lower level for approval.

Chairman Nelson noted several lawsuits in the County revolving around cell tower approval, etc. and stated that the perception of approval without a hearing by the public could make matters more complicated, not less, in Mendocino County.

Commissioner Holtkamp asked if the number of companies servicing a tower was considered a substantial change and noted the citizen complaints about road maintenance.

Commissioner Hall felt the cell companies were asking for what the County was already doing. He noted matters on the Consent Calendar were rarely subject to discussion and were a type of "stream lining" approval with a low level of review. He asked if there would be any significant savings to kick the application down for a lower level of review.

Mr. Mobley discussed two levels of review, the Zoning Administrator or an Administrative sign off by the Director. He noted that either process would still require the writing of a staff report and the Zoning Administrator was a public hearing process with meetings once a month.

Mr. Duley commented that the Zoning Administrator would provide the same level of review, but could reduce the time frame by a few weeks. He noted a project could be sent to the Zoning Administrator and then kicked up to the Planning Commission if substantial public concerns were raised.

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

Commissioner Calvert was concerned with issues arising over the shared road, but asked that at least the conditions from the previous approval be applied to the current requests.

Commissioner Little asked staff which conditions were new in the report.

Mr. Duley stated that Condition #7 required that a separate bond be held from the original tower for removal, and Condition #21 changed the expiration date to July 19, 2022.

Commissioner Little made a motion to approve UM 3-2009/2012 per the findings and conditions of approval contained in the staff report on pages PC 4 through PC 6, making the environmental, findings and General Plan findings as prepared by Staff. He suggested a new condition stating "The applicant shall be subject to all conditions approved under U 3-2009", modified the expiration date to July 19, 2022, and asked staff to prepare a new condition regarding the cumulative review of modifications.

[Break 9:49 AM – 9:59 AM]

Mr. Duley read staffs language, "Future modifications shall be considered cumulatively to determine if request constitutes a "substantial change" to the facility under applicable federal law".

Mr. Dohm agreed to the language.

Commissioner Warner seconded the motion.

Commissioner Calvert asked if all the previous conditions would be listed, or only the new condition as proposed to state all previous conditions apply.

Commissioner Little commented that all the conditions would be listed as a reference.

Commissioner Ogle asked if the new condition language would be added on all new modifications.

Mr. Duley stated he would add the condition to all future modifications.

Upon motion by Commissioner Little, seconded by Commissioner Warner and carried by the following roll call vote (7-0), IT IS ORDERED:

General Plan Consistency Finding: The proposed project is consistent with applicable goals and policies of the General Plan

Environmental Findings: The Planning Commission finds that the project is Categorically Exempt from CEQA, Class 1b.

Project Findings: The Planning Commission approves Use Permit Modification #UM 3-2009/2012, 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.
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.
3. That such use preserves the integrity of the zoning district.

RECOMMENDED CONDITIONS:

1. As soon as practical following completion of any earth disturbance, vegetative ground cover equal to or better than existing shall be reestablished on all disturbed portions of the site.
2. Temporary erosion control measures shall be in place at the end of each workday and shall be maintained until permanent protection is established.
3. 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 shall be turned off except when in use by facility personnel.
4. All exterior surfaces of structures and equipment associated with the communication facility shall have subdued colors and non-reflective materials selected to blend with their surroundings.
5. Existing trees and other vegetation, which provide screening for the 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.
6. If use of any portion of the proposed facility subject to this permit is discontinued for more than one year, all those parts of the facility not in use, above grade, shall be completely removed from the site.
7. 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 equipment in the event that the applicant abandons operations or fails to comply with requirements to remove all their equipment.

8. 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.
9. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the facility, and to require no more than a reasonable charge for shared use.
10. 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 an exterior wall 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.
11. The wireless communications facility shall comply with the Federal Communications Commission's limits for human exposure to radio frequency electromagnetic fields.
12. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower. The intent is that Federal safety requirements will be met with the least visual impact from public locations.
13. 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.
14. 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.
15. The use and occupancy of the premises shall be established and maintained in conformance with the provision so Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
16. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission.
17. That this permit be 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.
18. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

19. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

20. 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.
21. This permit is issued for a period of ten years, and shall expire on ~~June 21, 2022~~ July 19, 2022. 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. Previous Use Permit entitlement #U 3-2009, expiration date shall be modified to ~~June 21, 2022~~ July 19, 2022 as well.

22. The applicant shall be subject to all conditions approved under U 3-2009.

23. Future modifications shall be considered cumulatively to determine if request constitutes a "substantial change" to the facility under applicable federal law.

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

4b. CASE#: UM 6-2001/2012 (Continued from 6/21/2012)

DATE FILED: 1/6/2012

OWNER: GOLDEN RULE CHURCH ASSOCIATION

APPLICANT/ AGENT: LANA SHEARER/COMPLETE WIRELESS

REQUEST: Use Permit Modification to allow for the addition of three (3) microwave dish antennas to an existing 140 foot tall telecommunication tower and installation of ground equipment including a 192 square foot equipment shelter, a backup generator and 500 gallon propane storage tank.

LOCATION: 5+/- miles northwest of Redwood Valley town center, lying 1.2+/- miles east of State Highway 101, 1.4+/- miles south of its intersection with Black Bart Drive (CR# 370), located at 16101 North Highway 101; AP# 106-150-34.

PROJECT COORDINATOR: DUSTY DULEY

Mr. Duley reviewed the staff report and discussed the modification to add 3 microwave dishes to an existing tower at the Golden Rule antenna farm. He noted this was another project where the applicant had requested the item be pulled off of the consent calendar for discussion.

Commissioner Ogle noted that page PC 2 stated that no comments had been received from Air Quality, however the checklist of referral comments at the end of the report noted that AQMD had submitted comments.

Mr. Duley noted page PC 2 was an error and AQMD had submitted comments stated that the applicant would need to contact the district for a permit regarding the propane back up generator.

Mark Lombaugh, agent for Verizon, discussed the project and noted the current generator would be replaced with a larger generator, but the compound itself would not be expanded. He commented that Verizon had requested the project be pulled off of the consent calendar to hear the discussion of the previous project and see how the County would handle modifications. He also stated that he was instructed to accept the conditions of approval under protest by Verizon, who disagreed with the condition regarding collocation of public agencies. He noted that the city of Chico had updated the submittal process for modifications and suggested staff review their policy for future reference.

Mr. Duley read the new condition into the record that the Commission had approved for the previous modification; "Future modifications shall be considered cumulatively to determine if request constitutes a "substantial charge" to the facility under applicable federal law".

Mr. Lombaugh agreed to the new condition.

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

Commissioner Calvert noted the expiration date needed updating.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall and carried by the following roll call vote (7-0), IT IS ORDERED to approve UM 6-2001/2012 per the findings and

conditions of approval contained in the staff report, adding new condition #22 to state; "Future modifications shall be considered cumulatively to determine if request constitutes a "substantial charge" to the facility under applicable federal law", and modifying the expiration date to July 19, 2022.

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan.

Environmental Findings: The Planning Commission finds that the project is Categorically Exempt from CEQA, Class 1b.

Project Findings: The Planning Commission approves Use Permit Modification #UM 6-2001/2012, 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.
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.
3. That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL:

1. As soon as practical following completion of any earth disturbance, vegetative ground cover equal to or better than existing shall be reestablished on all disturbed portions of the site.
2. Temporary erosion control measures shall be in place at the end of each workday and shall be maintained until permanent protection is established.
3. The operator of the existing generator shall contact the County Air Quality Management District as to the need to obtain a permit from the District.
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 shall be turned off except when in use by facility personnel.
5. Existing trees and other vegetation, which provide screening for the 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.
6. All exterior surfaces of structures and equipment associated with the communication facility shall have subdued colors and non-reflective materials selected to blend with their surroundings.
7. If use of any portion of the proposed facility subject to this permit is discontinued for more than one year, all those parts of the facility not in use, above grade, shall be completely removed from the site.
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 applicant's equipment in the event that the applicant abandons operations or fails to comply with requirements to remove all their equipment.

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 any archaeological discoveries have been satisfied.
10. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site. If requested, public agencies shall be permitted to collocate their facilities.
11. 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 an exterior wall 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.
12. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower. The intent is that Federal safety requirements will be met with the least visual impact from public locations.
13. 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.
14. Prior to commencement of operations, all surplus construction materials and debris shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.
15. 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.
16. 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.
17. That this permit be 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.
18. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

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

19. 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.

20. 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.
21. This permit is issued for a period of ten years, and shall expire on ~~May 17, 2022~~ July 19, 2022. 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. Previous Use Permit entitlements #U 6-2001, #UM 6-2001/2004 and #UM 6-2001/2009 expiration dates shall be modified to ~~May 17, 2022~~ July 19, 2022 as well.

22. Future modifications shall be considered cumulatively to determine if request constitutes a "substantial change" to the facility under applicable federal law.

23. The applicant shall be subject to all conditions approved under U 6-2001.

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

5. Matters from Staff.

Mr. Duley asked if the Commission would prefer to have all future modifications list the previous use permits conditions, or simply state that all previous conditions applied to the current request.

Mr. Losak noted his preference was to have each application list all the conditions the same as the original permit so there was one document for reference versus having to pull up an old record to list the conditions.

6. Matters from Commission.

Commissioner Calvert noted the continued discussion of the Wireless Guideline was scheduled for August and hoped staff could piggy back a discussion in streamlining the process for broadband on the same agenda.

Commissioner Ogle asked if staff had checked with other local cities and counties so the guidelines would be similar.

Mr. Duley noted he was attempting to meet with all the interested parties, but was having difficulty getting everyone together. He noted staff frequently worked with other jurisdictions on the various guidelines.

7. Approval of Minutes.

Commissioner Ogle submitted corrections by email.

Upon motion by Commissioner Ogle, seconded by Commissioner Calvert and carried by a voice vote of (7-0), the June 21, 2012 Planning Commission Minutes are approved as corrected.

8. Matters from Public.

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

9. Adjournment.

Upon motion by Commissioner Calvert, seconded by Commissioner Ogle, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourn at 10:19 a.m.