

ATTACHMENT A

Resolution Number _____

County of Mendocino
Ukiah, California

MARCH 18, 2021

UM_2020-0004 – CROWN CASTLE COMPANY LLC

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, ADOPTING A SUBSEQUENT MITIGATED NEGATIVE DECLARATION AND GRANTING A USE PERMIT MODIFICATION FOR A 20-FOOT HEIGHT INCREASE TO AN EXISTING 50-FOOT CELLULAR ANTENNA MONOPINE.

WHEREAS, the applicant, JASON OSBORNE, filed an application for a Use Permit Modification with the Mendocino County Department of Planning and Building Services to Modify a wireless communication facility by extending the height of an existing “monopine” (monopole designed to resemble a pine tree) from 50 feet to 70 feet along with the installation of a new AT&T approved walk in cabinet on a new eight foot by eight foot concrete pad, installation of a new “faux” branch design for the monopine, new GPS antennas, install nine new panel antennas, install eighteen Remote Radio Units (RRUs), install two Raycap DC6 surge protection squids and one Raycap DC9 surge suppression squid, install a Generac diesel generator on a new ten foot by four foot concrete pad, install new H-frame with various new equipment being attached, install one new six foot diameter microwave dish at the top of the tower, install a new lightning rod to the top of the addition, and various new electrical wiring, 9+/- miles northeast of Laytonville, lying on the north side of Spyrock Road (CR 323), 4.4+/- miles northeast of its intersection with Highway 101, located at 3750 Spyrock Road, Laytonville; APN: 056-310-18; General Plan RMR:20; Zoning UR:20; Supervisorial District 3; (the “Project”); and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*; CEQA) and the CEQA Guidelines (Title 14 California Code of Regulations section 15000 *et seq.*), a Mitigated Negative Declaration (“MND”) was previously prepared for the original project (U_2009-0003) and was noticed and made available for agency and public review on September 15, 2009 and was adopted by the Planning Commission on October 15, 2009; and

WHEREAS, section 15162 of the CEQA Guidelines provides that a subsequent document to a previously adopted MND may be prepared if on the basis of substantial evidence in the light of the whole record, that certain changes or new information has been presented that requires revisions to the previously adopted document; and

WHEREAS, County staff has prepared a subsequent Mitigated Negative Declaration related to the proposed use permit modification; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, February 18, 2021 and March 18, 2021, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the subsequent mitigated negative declaration and the Project. All interested persons were given an opportunity to hear and be heard regarding the subsequent mitigated negative declaration and the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings, based upon the evidence in the record;

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- 1. General Plan & Zoning Consistency Findings:** The General Plan land use classification is Remote Residential (RMR 20) and the zoning for the parcel is Upland Residential (UR 20). A WCF is categorized under the Major Impact Services and Utilities Civic Use Type. Within the UR 20 zoning, Major Impact Services and Utilities is a conditional use, subject to approval of a major use permit. County Inland Zoning Code Section 20.056.005 states the intent of the UR zoning district.

This district is intended to create and enhance farming and low-density agricultural/residential uses. Typically the U-R District would be applied to nonprime production lands which have constraints to commercial agriculture, timber production or grazing but which are absent of such limitations as inadequate access, unacceptable hazard exposure or incompatibility with adjoining resource lands.

The WCF is located within a previously developed area. Proposed WCF modifications will remain within the existing developed WCF site; no expansion is proposed. Based on the minimal amount of land used to support the project, approximately 864 square feet, the project will not significantly affect the properties agricultural or residential capabilities or conflict with the intent of the UR zoning district.; and

- 2. Use Permit Findings:** The Project satisfies the Use Permit required findings per the Mendocino County Code §20.196.020 :

MCC Section 20.196.020 (A) That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;

The proposed development is located entirely within the portion of the parcel classified as RMR20. Policy DE-15 in the Development Element of Mendocino County's General Plan cites utility installations as a general use. The surrounding parcel is occupied by a residence and several outbuildings. The WCF has been on the site it occupies in one form or another since at least 1998. The proposed development consisting of a twenty foot height increase will not interfere with the continued use of the parcel. If developed in conformance with the recommended Conditions of Approval, the project is found to be consistent with the Mendocino County General Plan.

MCC Section 20.196.020 (B) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;

There is an existing easement road to the facilities that accommodates vehicular traffic and electrical utilities to the site. On site drainage facilities are not present in this rural location. Access to the easement is from Spyrock Road, which is a public road (CR323) with a gravel surface and maintained by the Mendocino County Department of Transportation. The application was referred to the Mendocino County Department of Transportation (MCDOT) for comments. MCDOT responded on July 21, 2020 with no comments. Cal Fire was contacted prior to submittal and the agency commented that: "The project you described is not required to meet State Fire Safe Regulations (PRC 4290) and therefore does not require any Conditions of Approval be granted from this office."

MCC Section 20.196.020 (C) That such use will not, under the circumstances of that particular case, 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; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;

The proposed increase in height of the existing wireless communication facility will not constitute a public nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons

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residing or working in the area of the proposed use if constructed in conformance with the recommended Conditions of Approval.

MCC Section 20.196.020 (D) That such use preserves the integrity of the zoning district.

The project site is located within an Upland Residential zoning district (UR:20), which is intended to create and enhance farming and low-density agricultural/residential uses. The surrounding parcel is mainly used for low density residential. The proposed development will not interfere with the continued use of the parcel and is an allowed conditional use within the zoning district. Given the small size of the proposed development on the parcel, the proposed development will not affect the future development of uses on the parcel. Therefore, the proposed use will preserve the integrity of the zoning district; and

3. Environmental Protection Findings: A subsequent Mitigated Negative Declaration to the previously adopted MND has been prepared for this use permit modification in compliance with CEQA and the CEQA Guidelines. Certain potentially significant impacts were identified as a result of the proposed modification; however, these impacts can be reduced to less than significant levels with the incorporation of several mitigation measures. As a result, a subsequent Mitigated Negative Declaration has been prepared.

BE IT FURTHER RESOLVED that the Planning Commission hereby approves and adopts the subsequent Mitigated Negative Declaration and the mitigation measures in the form attached to the agenda packet. The Planning Commission certifies that the subsequent Mitigated Negative Declaration has been completed, reviewed, and considered, together with the comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the subsequent Mitigated Negative Declaration reflects the independent judgment and analysis of the Planning Commission.

BE IT FURTHER RESOLVED that the Planning Commission hereby grants the requested Use Permit Modification, subject to the Conditions of Approval & Mitigation Measures in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material which constitutes the record of proceedings upon which the decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission action shall be final on the 11th day after the date of the Resolution unless an appeal is taken.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: JAMES F. FEENAN
 Commission Services Supervisor

By: _____

BY: IGNACIO "NASH" GONZALEZ
 Interim Director

ALISON PERNELL, Chair
Mendocino County Planning Commission

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EXHIBIT A

CONDITIONS OF APPROVAL & MITIGATION MEASURES

UM_2020-0004 – CROWN CASTLE COMPANY LLC

MARCH 18, 2021

APPROVED PROJECT DESCRIPTION: Use Permit Modification of U 3-2009/2012 to modify a wireless communication facility by extending the height of an existing “monopine” (monopole designed to resemble a pine tree) from 50 feet to 70 feet along with the installation of a new AT&T approved walk in cabinet on a new eight foot by eight foot concrete pad, installation of a new “faux” branch design for the monopine, new GPS antennas, install nine new panel antennas, install eighteen Remote Radio Units (RRUs), install two Raycap DC6 surge protection squids and one Raycap DC9 surge suppression squid, install a Generac diesel generator on a new ten foot by four foot concrete pad, install new H-frame with various new equipment being attached, install one new six foot diameter microwave dish at the top of the tower, install a new lightning rod to the top of the addition, and various new electrical wiring.

RECOMMENDED CONDITIONS:

Conditions of Use Permit U 3-2009/2012

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. No aircraft warning lighting shall be installed.
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.

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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.

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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. 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 as well.

ADDITIONAL CONDITIONS FOR UM 2020-0004

Aesthetics

- 1.** Prior to the issuance of a building permit for the tower addition, the new branch design proposed for this modification shall be submitted for review and approval by the Planning Department. The faux branches of the tree shall extend **beyond** the antennas and fully conceal the supporting structure and antennas along the full height of the tower. The density of the branches shall be a minimum of 2.5 branches for each one vertical foot of pole and attachment of branches shall start at a height no greater than twenty-five feet above finished grade and continue to the top of the pole. The branch length at the lowest level shall be a minimum of eight feet and shall taper appropriately as the branches progress upwards. All effort shall be made to conceal the antennas at all elevations from view. Prior to final project sign off by the Mendocino County Building Division, an evaluation of the facility's stealth capability shall be submitted for review and approval by the Mendocino County Planning Department.
- 2.** The total height of the facility shall not exceed seventy-feet in height above ground level. Upon completion of the installation of the facility and prior to final sign-off of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height. Exceeding this height limitation shall require a modification of this Use Permit.

Air Quality

3. Any stationary onsite diesel 1C engines 50 horsepower or greater (i.e. large power generators or pumps) or any propane or natural gas engines 250 horsepower or greater may require a permit from the District.
4. Portable diesel powered equipment that may be used during the proposed project are required to be registered with the state Portable Equipment Registration Program (PERP) or obtain permits from the District.
5. All visibly dry disturbed soil road surfaces shall be watered to minimize fugitive dust emissions.
6. All unpaved surfaces, unless otherwise treated with suitable chemicals or oils, shall have a posted speed limit of 10 miles per hour.
7. Earth or other material that has been transported by trucking or earth moving equipment, erosion by water or other means onto paved streets shall be promptly removed.

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8. Asphalt, oil, water or suitable chemicals shall be applied on materials stockpiles and other surfaces that can give rise to airborne dusts.
9. All earthmoving activities shall cease when sustained winds exceed 15 miles per hour.
10. The operator shall take reasonable precautions to prevent the entry of unauthorized vehicles onto the site during non-work hours.
11. The operator shall keep a daily log of activities to control fugitive dust.

Cal Fire

12. If any new buildings are constructed that are over 200 square feet in size, or new additions to buildings are constructed, or any changes to the existing driveway or roadway access, a State Fire Safe Regulations (PRC 4290) application will need to be completed and all conditions of approval met.

Noise

13. The Generator shall be equipped with mufflers and spark arresters, and shall not produce noise levels exceeding 50 dBa at the nearest off site residence. Routine testing and maintenance shall be limited to weekdays between 8:30 a.m. and 4:30 p.m. Repairs and emergency use are not included in this limitation. If necessary the generator 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.

Expiration

14. This permit is issued for a period of ten years, and shall expire on **February 18, 2030**. 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 3-2009/2012, expiration date shall be modified to February 18, 2030 as well.

General

15. Prior to any construction commencing, a building permit shall be obtained from the Mendocino County Building Department.
16. The permit holder shall contact the Mendocino County Environmental Health Department to update the California Environmental Reporting System (CERS).
17. The facility shall provide, if requested, space for any public emergency service provider to locate communication equipment of the tower, provided no interference to function will result at a minimum or no fee.
18. The antennas and supporting structure shall be inspected every ten years, and following significant storm, fire 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.
19. By commencing work allowed by this permit, the permit holder agrees to negotiate in good faith with third parties requesting shared use of the site and to require no more than a reasonable charge for colocation.
21. Prior to issuance of a building permit, the applicant shall provide either a new or updated irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security

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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.

** Mitigation Measure