



MEMORANDUM

DATE: MAY 21, 2015

TO: PLANNING COMMISSION

FROM: DUSTY DULEY, PLANNER

RE: #OA 2014-0003, WIRELESS COMMUNICATIONS FACILITIES
REVIEW AND CONSIDER AN AMENDMENT OF THE INLAND ZONING CODE (TITLE
20, DIVISION 1) TO MODIFY THE PERMIT PROCESS FOR CERTAIN TYPES OF
WIRELESS COMMUNICATION FACILITIES.

INTRODUCTION: Staff is submitting a proposed ordinance amendment to the County Inland Zoning Code (Title 20 – Division 1 of the Mendocino County Code). Mendocino County is considering adopting this ordinance to better define where and how wireless communications facilities may be installed in the inland unincorporated areas of Mendocino County. The proposed ordinance describes the circumstances in which wireless facilities may be exempt from discretionary review, subject to Administrative Permits, and when a Major Use Permit will be required.

BACKGROUND: Wireless communication facilities, historically known as cell towers, have been a contentious issue in Mendocino County for the past several years. On November 15, 2001, the Planning Commission adopted guidelines for approval and operation of wireless communication facilities to help facilitate orderly development of the emerging wireless industry. Even with adoption of the *Guidelines for the Development of Wireless Communication Facilities* (Wireless Guidelines), there have been many unresolved cases resulting in litigation and/or threat of litigation. As the wireless industry rapidly evolves, Mendocino County's governance of the industry also must change to meet the new demands. Keeping up with the changes to industry needs has, at times, left the County in the position of incrementally dealing with issues on a case by case basis, causing a need to adapt and re-interpret the Guidelines. This has left the staff, the Commission, the industry, and/or the public sometimes at odds.

The most controversial topic raised by the public continues to be the potential for the wireless facilities to be an environmental health hazard. The Telecommunications Act of 1996 limits the authority of local governments when regulating the environmental effects of radio frequency emissions. Therefore, these draft modifications to the Guidelines are limited in their ability to address those effects beyond issues that generally are already in the existing Guidelines.

Staff has attempted to resolve issues that the public and the industry have with the current process. The public has voiced many diverse opinions; some of the key areas of concern are aesthetics, local control, long-range plan of the industry, maintaining zoning integrity and access to sites. For many years now, the wireless industry has expressed a strong desire for streamlining the process to make it more practical to establish and maintain a wireless infrastructure. More recently, local broadband providers have also expressed concerns with current use permit application fees and process as a hindrance to operating a profitable small business and providing cheap broadband service to rural areas of our County. Past discussions have focused on providing a streamlined process for the industry for minor modifications to

existing facilities and encouraging more stealth designs to screen new facilities. It was felt that in exchange for compliance with a strict outline of standards that the County could consider a more expeditious processing method.

The “counter” argument to this approach is that regardless of mitigating factors such as stealth designs within structures (the application for an antenna designed to appear as a support beam below a deck near Mendocino and the U.S. Cellular application for an antenna hidden within a chimney at the Stanford Inn) individual cases seem to generate some controversy regardless of the “good faith” efforts to screen the development. Other cases that seemed rather benign (the tower in the hills east of Covelo), generate local controversy far beyond what is initially anticipated, while other cases staff were convinced would cause controversy (the U.S. Cellular tower off Redemeyer Road) have little or no public comment.

Staff has also worked with the industry representatives to encourage co-location of sites; however this too has gained mixed results in that sites proposed that incorporate facilities that will be able to house other providers are, by their nature, taller and generally more visually intrusive to accommodate multiple carriers.

PROJECT DESCRIPTION:

Alternative Permit Process

At the Commission’s direction staff initiated a discussion with stakeholders about creating a separate permit process for certain less intensive projects including the addition of various antennas to existing legal permitted structures whether that structure is a tower, monopole, house, barn, billboard, sign etc...

Staff met with the Broadband Alliance, local broadband providers, and cellular representatives on October 5, 2013 to discuss the creation of an alternative permit process (APP) for certain types of wireless applications along with strict criteria or standards. Based on comments from various stakeholders and direction from the Commission, staff prepared a draft APP in the form of a code amendment to the County Inland Zoning Code. At the approval of the Commission, an Ad Hoc Committee consisting of three Planning Commissioners and staff reviewed the draft APP, leading to the draft version of the APP which was brought forward for the full Commission’s consideration at the April 17, 2014 Commission meeting. The Commission provided direction to staff regarding modification to the ordinance. Those changes are described in staff’s memo to the Commission for the September 18, 2014 meeting.

The major change in the application process is the introduction of the administrative permit to streamline the planning process. To qualify for an administrative permit the applicant will need to meet one or more of the four categories listed in the new administrative permit section along with the standards identified for each. The first category recognizes the importance of utilizing co-location and allows for co-location applications to be approved by an administrative permit if the changes are minor. The second and third categories, building and roof mounted antennas, were added to encourage the use of existing structures without substantial change to the appearance or function of the structure and minimize the need for new towers. The third category is an incentive for the wireless industry to construct wireless facilities less than 50 feet in height that are visibly unobtrusive and effectively unnoticeable rather than the typical 100 foot tall and higher towers that are often proposed. If the application does not meet one of the four categories and applicable criteria then the applicant must apply for a use permit.

An administrative permit does not necessarily require a public hearing, that decision is at the discretion of the Zoning Administrator, and the process would be utilized to permit only those projects that are consistent with identified standards and would have a negligible impact to the site and surrounding area.

This APP attempts to meet both the goals of streamlining the permit process and the needs of the public. By allowing the cellular and broadband providers the option of applying for an Administrative Permit for a new tower under 50 feet in height as well as giving them greater flexibility for minor modifications of existing facilities and other structures, the planning process will be quicker and more cost effective.

New FCC regulations

On January 8, 2015, the Federal Communications Commission (FCC) published, in the Federal Register, new rules and order pertaining to the deployment of wireless telecommunication facilities. These rules in part affect how applications to modify an existing “wireless” telecommunication facility may be processed. Staff is recommending new language (Section 20.236.020A) be included in the Ordinance to accommodate the special streamlined processing requirements required by the FCC rules. In anticipation of the May 21, 2015 Commission meeting, County Counsel’s Office is preparing additional information on this matter for the Commissions’ benefit.

CEQA Review

As this is an amendment to the zoning code, revisions are subject to environmental review under the California Environmental Quality Act (CEQA) and must be approved by the Board of Supervisors. An Initial Study has been prepared for the project. Upon completing the Initial Study staff determined that development standards outlined in proposed revisions to Section 20.236.035 are adequate to ensure that a project will not result in significant impact to the environment. Additional conditions can be placed on a project to ensure consistency with the identified standards.

RECOMMENDATION: Recommend that the Board of Supervisors adopt the proposed revisions to the Inland Zoning Code (Title 20, Division 1) to modify the permit process for certain types of wireless communication facilities.

FINDINGS:

That the Planning Commission recommends that the Board of Supervisors find:

1. That an Initial Study has been prepared for the project in accordance with the California Environmental Quality Act and that potential environmental impacts identified for the project can be adequately addressed by the identified development standards so that no significant adverse environmental impacts will result from adoption of the proposed amendment; and that a Negative Declaration be adopted by the Board of Supervisors.
2. That the proposed amendment is consistent with the applicable goals and policies of the General Plan and Ukiah Valley Area Plan.

Prepared by:

DATE

DUSTY DULEY
PLANNER III

ATTACHMENTS:

Attachment A – County of Mendocino Map

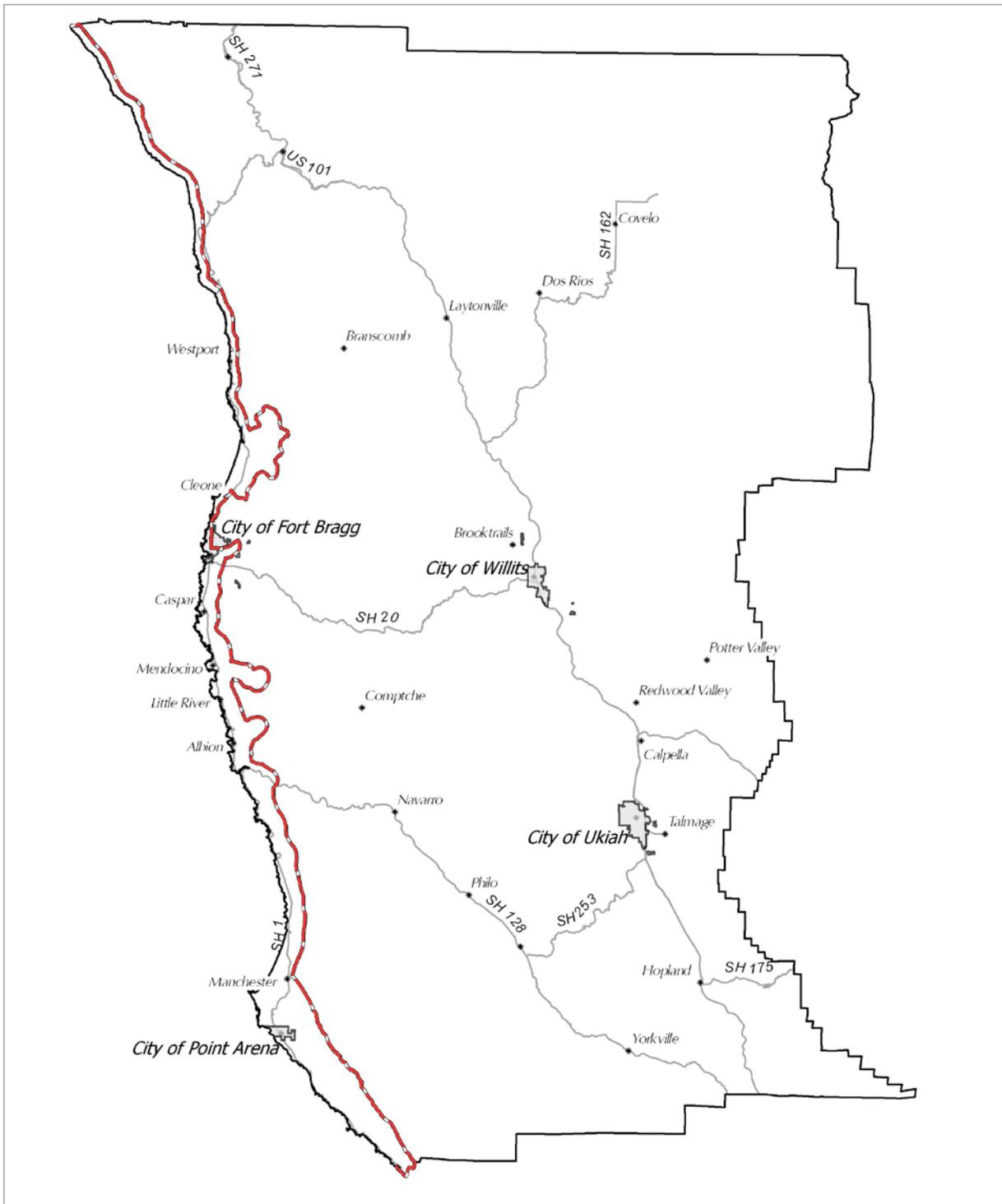
Attachment B – Draft Ordinance

Attachment C – Initial Study

Attachment D – Strikeout Version of Mendocino County Code proposed edits

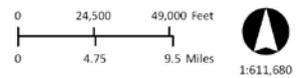
Attachment E – Clean Version Mendocino County Code proposed edits

Attachment F – September 18, 2014 Planning Commission Memo/Approved Minutes



Coordinate System: NAD 83, Calif. State Plane Zone II
 Projection: Lambert Conformal Conic
 Parcel Data: Mendocino County Info. Svcs., October, 2014
 Aerial Imagery: US Dept. of Agriculture, NAI series, unless otherwise indicated
 Topographic Data: USGS 7.5 minute quad series
 Flood Data: FEMA FIRM Maps, June 2011
 AP & Situs numbers subject to change or correction at any time.

- Coastal Zone Boundary Line
- Incorporated City Limits
- * Major Towns & Places
- Highways



COUNTY OF MENDOCINO

Map produced by the Mendocino County Planning & Building Services, March, 2015
 All spatial data is approximate. Map provided without warranty of any kind.
THIS MAP AND DATA ARE PROVIDED WITHOUT WARRANTY OF ANY KIND.