

Resolution Number _____

Planning Commission
County of Mendocino
Ukiah, California
July 16, 2015

U_2014-0012 - Richard Varian and Kathleen Jacobs-Varian

Resolution of the Planning Commission, County of Mendocino, State of California, certifying a Mitigated Negative Declaration and granting a Use Permit to authorize construction and operation of a wireless communication facility situated 3.25± miles northeast of Willits, lying on the north side of Reynolds Highway (CR 310), 2± miles southeast of its intersection with Highway 101, located at 24710 Reynolds Highway; APN 037-221-35.

WHEREAS, the applicant, Cellco Partnership, dba Verizon Wireless, filed an application for a Use Permit #U 2014-0012 with the Mendocino County Department of Planning and Building Services to authorize construction and operation of a wireless communication facility consisting of an 85 foot tall “monopine”, monopole designed to resemble a pine tree, 9 panel antennas, auxiliary equipment as well as ground based equipment including a 30 kilowatt diesel generator with 132 gallon fuel storage tank and a 195 square foot equipment shelter and a new 200 foot long and 16 foot driveway (the “Project”), situated 3.25± miles northeast of Willits, lying on the north side of Reynolds Highway (CR 310), 2± miles southeast of its intersection with State Highway 101, located at 24710 Reynolds Highway; APN 037-221-35; General Plan Agricultural Lands (AG); Zoning Agriculture (AG 40) and Flood Plain Combining District (FP) and Agricultural Preserve (A); Supervisorial District 3; and

WHEREAS, a Mitigated Negative Declaration was prepared for the Project and noticed and made available for agency and public review for the proposed project in accordance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on July 16, 2015, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Mitigated Negative Declaration and the Project. All interested persons were given an opportunity to hear and be heard regarding the 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 for the intentions of the Planning Commission regarding the Mitigated Negative Declaration and the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings;

Environmental Finding:

1. The environmental impacts identified in the initial study for the project can be adequately addressed 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 Mitigated Negative Declaration is certified.

General Plan Finding:

1. The proposed project is consistent with the property General Plan designation of Agricultural Lands (AG) and with applicable goals and policies of the General Plan as subject to the Conditions of Approval found in Exhibit A of the resolution.

Use Permit Findings:

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

Access to the project site will be provided by new 200 foot long and 16 foot driveway that extends from Reynolds Highway (CR 310). Power is available to support the project. Condition Number 15 will ensure that adequate drainage facilities will be provided. Condition Number 19 requires the private driveway approach onto the county road be improved and maintained to commercial standards as determined by the County Department of Transportation.

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

The nearest off-site residence is located approximately 1,500 feet southeast of the project site. The facility will not be accessed by anyone other than company personnel. Upon completing the Initial Study, staff did not find any impacts from the project that would constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

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

The A-G zoning district allows for the construction and operation of a wireless communication facility subject to obtaining a major use permit. Based on the small footprint of the project relative, 1,600 square foot lease area and 200 foot long and 16 foot wide new driveway, to the size of the subject property 120± acres, the project is consistent with the intent of and preserves the integrity of the A-G zoning district.

BE IT FURTHER RESOLVED that the Planning Commission hereby certifies the Mitigated Negative Declaration and the Mitigation Monitoring Program set forth in the Conditions of Approval. The Planning Commission certifies that the 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 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 #U 2014-0012, subject to the Conditions of Approval 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.

EXHIBIT A

CONDITIONS OF APPROVAL USE PERMIT - U_2014-0012 JULY 16, 2015

Construction and operation of a wireless communication facility situated 3.25± miles northeast of Willits, lying on the north side of Reynolds Highway (CR 310), 2± miles southeast of its intersection with Highway 101, located at 24710 Reynolds Highway; APN 037-221-35.

APPROVED PROJECT DESCRIPTION: The construction and operation of a wireless communication facility consisting of an 85 foot tall “monopine”, monopole designed to resemble a pine tree, 9 panel antennas, auxiliary equipment as well as ground based equipment including a 30 kilowatt diesel generator with 132 gallon fuel storage tank and a 195 square foot equipment shelter.

CONDITIONS OF APPROVAL:

Aesthetics

- **1. Exterior surfaces of structures and equipment shall have subdued colors and non-reflective materials selected to blend with their surroundings. Color(s) shall be reviewed by the Department of Planning and Building Services for approval prior to issuance of a building permit.

Prior to issuance of a building permit, the applicant shall provide samples of colors to be used to the Department of Planning and Building Services for approval along with a statement that exterior surface of structure and equipment will be made of non-reflective materials. Department of Planning and Building Services planning staff will verify compliance with this condition prior to final of building permit.

- **2. The total height of the facility including antennas will not exceed 85 feet in height above ground level. Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height. This condition is a concealment element of the project and exceeding this height limitation shall require a modification of this Use Permit.

Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height.

- **3. Existing trees and other vegetation, which will provide screening for the proposed facility and associated access roads, shall be protected from damage. No trees or other vegetation 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. Activities such as removal of poison oak and mowing field are not included in this limitation.

No trees are proposed to be or need to be removed to support the project. The applicant shall provide a written request to the Department of Planning and Building Services prior to removing or trimming any trees within 300 feet of the facility. Request shall include photos of subject trees and a written description including number, size and type of trees/vegetation to be removed or trimmed along with justification for removal/trimming. No trees/vegetation shall be removed unless approved in writing by the Department.

- **4. Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the 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.

Prior to issuance of a building permit, the applicant shall provide the Department of Planning and Building Services an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel

- **5. If use of any portion of the proposed facility is discontinued for more than one year, all parts of the facility not in use, above grade, shall be completely removed from the site, and the site shall be restored to a natural-appearing condition.

The applicant shall provide written notification to the Department of Planning and Building Services if they discontinue use of any portion of the facility along with a plan to remove subject equipment and restore the site if applicable.

- **6. Branches of the "monopine" shall extend beyond the antennas and fully conceal the supporting structure and antennas. The branches must:

- (i) Be constructed to a density of 3.5 branches for each one vertical foot of pole, and
- (ii) Start attachment at no greater than ten (10) feet above finished grade and continue to the top of the pole.

The applicant shall contact the Department of Planning and Building Services upon completing the "monopine". Prior to finalizing the building permit, Department of Planning and Building Services planning staff shall verify that the "monopine" construction is consistent with this condition. Also see Condition Number 8.

- **7. The antenna array shall not extend more than thirty (30) inches from the structure to which it is attached.

The applicant shall demonstrate compliance with this condition on building plans submitted with building permit. The building inspector shall verify compliance with this condition during final inspection and prior to finalizing building permit.

- **8. 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.

The applicant shall submit an evaluation of the facility as described above. Department of Planning and Building Services planning staff shall notify the applicant if any replacement or remediation of the wireless facility is necessary. The applicant should anticipate the Department's expectation to complete identified work within 90 days of being notified by the Department. Failure to complete work may be grounds for revocation of this permit. See Condition Number 29.

- **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.

The applicant shall demonstrate compliance with this condition by identifying the location and types of all light fixtures on building plans submitted with building permit.

Air Quality

10. Prior to the development phase of the project, the applicant shall contact the Mendocino County Air Quality Management District for a determination as to the need for a permit from the District for the proposed generator.
11. All grading activities must comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

Cultural Resources

- **12. A professional archaeologist shall monitor all ground disturbing activities related to the project.

The applicant shall notify the Department of Planning and Building Services prior to any ground disturbing activities related to the project. The applicant shall provide in writing the name and qualifications of the professional archaeologist to be approved by the Department. Should archaeological resources be discovered, all work shall be halted and the applicant shall contact the Department of Planning and Building Services immediately. Work will not commence until such time that all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied as verified by the Department.

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

Geology and Soils/Hydrology and Water Quality

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

Noise

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

Public Services

17. The applicant shall complete California Department of Forestry and Fire Protection (CalFire) standard fire safe requirements pursuant to CalFire File #194-14. The applicant shall obtain written verification from CalFire stating that this condition has been met to the satisfaction of CalFire and submit it to the Department of Planning and Building Services.
18. 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.

Transportation/Traffic

19. In conformance with encroachment permit procedures administered by the Mendocino County Department of Transportation, the applicant shall construct and maintain a commercial driveway approach onto Reynolds Highway (CR 310), to a minimum width of eighteen (18) feet, and improved length of twenty (20) feet from the edge of the County road, to be surfaced with asphalt concrete.
20. Prior to any work within County rights of way, the applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation.

Wireless Guidelines

21. Prior to the final inspection by the Building Division of the Department of Planning and Building Services, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger than one square foot, shall be mounted on the fence exterior in a location visible when approached from the road, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.

22. 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.
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. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site and to require no more than a reasonable charge for collocation.
25. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.

Standard Conditions

26. 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.
27. 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.
28. 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.
29. 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.
30. 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.
31. This permit is issued for a period of ten years, and shall expire on November 20, 2024. The applicant has the sole responsibility for renewing this permit before the expiration date. The county will not provide a notice prior to the expiration date.
32. 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.
33. Future modifications shall be considered cumulatively to determine if request constitutes a "substantial change" to the facility under applicable federal law.

Fish and Wildlife Filing Fee

34. This entitlement does not become effective or operative, and no work shall be commenced under this entitlement, until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services, Said fee of \$2,260.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to August 3, 2015 (within 5 days of the end of any appeal periods). Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

** Indicates Mitigation Monitoring and Reporting Program conditions associated with the Environmental document.

ATTEST: ADRIENNE M. THOMPSON
Secretary to the Planning Commission

MOLLY WARNER, Chair
Mendocino County Planning Commission

By _____

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

APPROVED AS TO FORM
DOUGLAS L. LOSAK, Interim County Counsel

BY: STEVEN D. DUNNICLIFF
Director

Deputy
