



MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON: March 19, 2015

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

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

COMMISSIONERS ABSENT: None

PLANNING & BLDG SVC STAFF PRESENT: Steve Dunicliff, Director
Andy Gustavson, Chief Planner
John Speka, Planner III
Dusty Duley, Planner III
Scott Perkins, Planner I
Adrienne Thompson, Commission Services Supervisor
Heidi Morrison, Staff Assistant II

OTHER COUNTY DEPARTMENTS PRESENT: Matthew Kiedrowski, Deputy County Counsel

1. **Roll Call.**

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

2. **Planning Commission Administration.**

2a. Determination of Legal Notice.

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

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

Mr. Dunicliff presented a verbal Director's Report and noted that staff was working on the Williamson Act Ordinance update and would host several working meetings around the County. He noted staff was targeting a Special Planning Commission Meeting for June 4, 2015 to review the changes. He also commented that there had been some confusion on the start time of the Brown Act training, which would begin at 1:00 pm.

4. **Matters from Public.**

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

5. **Consent Calendar.**

5a. **Approval of the January 15, 2015 Planning Commission Minutes.**

Chair Warner submitted a correction by email.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Ogle and carried by a voice vote of (7-0) the January 15, 2015 Planning Commission Minutes are approved as corrected.

6. **Regular Calendar.**

6a. **CASE#: A_2013-0004 (Continued from 2/19/2015)**

DATE FILED: 8/2/2013

OWNER/APPLICANT: DAVID SCHNEIDER

AGENT: RYAN SCHNEIDER

PROJECT COORDINATOR: SCOTT M PERKINS

REQUEST: Placement of 5660± acres into Williamson Act (Agricultural Preserve).

ENVIRONMENTAL DETERMINATION: Categorically Exempt - Class 17

LOCATION: 4± miles southeast of Covelo Town Center, lying 2.25 miles southeast of the intersection of CR 327 B (Hill Road) and CR 329 (Dobie Lane), and bordering the north bank of the Middle Fork Eel River. Located at 71891 Judge Webber Lane, Covelo, CA 95428; APN's 034-141-02, 04, 05, 06, 09, 034-145-02, 03, 04, 05, 034-146-06, 26, 27, 28, 29, 30, 034-147-05, 07, 13, 14, 034-150-10, 035-090-01, 05, 12, 19, 37, 46, 48, 49, 50, 51, 52, 53, 54, 55, 56, 035-100-02, 13, 14, 035-230-23, 24, 25, 035-240-23, 035-240-24.

RECOMMENDED ACTION: Recommend Denial to the Board of Supervisors.

Scott Perkins, Project Coordinator, reviewed the staff report and discussed the previous meeting dates. He noted the Resource Lands Protection Committee (RLPC) had reviewed additional information supplied by the applicant and had found the proposal consistent with Mendocino County Code Section 22.08.050A. Mr. Perkins commented that the applicant had submitted evidence that approximately 142 animal units could be supported on his property along with other information regarding his personal cattle operation. Mr. Perkins concluded that staff was now able to recommend that the Planning Commission recommend approval to the Board of the Agricultural Preserve contract.

David Schneider stated he had no comment.

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

Upon motion by Commissioner Little, seconded by Commissioner Nelson and carried by the following roll call vote (7-0), IT IS ORDERED to recommend the Board of Supervisors approve A_2013-0004.

REQUIREMENTS/FINDINGS: Section 22.08.050 contains requirements that shall apply to all lands eligible for incorporation as rangeland in an agricultural preserve.

Section 22.08.050(A) states that the land must be "comprised of soils classified as grass, oak-grass, and other soils that may produce feed at the rate of forty (40) acres or less per animal unit (A.U.)." A minimum quantity of 142 animal units is required to qualify 5,650 acres, assuming the acreage is comprised of the required soil types.

Section 22.08.050(B) additionally provides that no land shall be included within an agricultural preserve as rangeland unless the Board of Supervisors finds the following size and use requirements for qualifying agricultural preserves are presently met:

22.08.050(B)(1) A minimum production potential of ten (10) animal units of feed, such production potential requiring production of feed sufficient for fifty (50) sheep or ten (10) mature beef or dairy animals.

22.08.050(B)(2) A range in continuous use for livestock production and having within the preceding three (3) years a one-year history of such production.

RECOMMENDED MOTION: That the Planning Commission recommends to the Board of Supervisors approval of Agricultural Preserve A_2013-0004, finding that the existing agricultural operation is adequate to qualify the acreage proposed for preservation, pursuant to the requirements of County Code Section 22.08.050.

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

6b. CASE#: UR 2012-0004

DATE FILED: 7/17/2012

OWNER/APPLICANT: DANIEL & BECKY THOMAS

PROJECT COORDINATOR: SCOTT M PERKINS

REQUEST: Use Permit and Reclamation Plan Renewal to extend an existing quarry mining operation for twenty-five (25) years. Extraction would consist of up to 500,000 total cubic yards (CY) of material (average of 20,000 CY per year) with up to 50,000 CY in any one year.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

LOCATION: 4± miles southeast of Hopland, lying 0.75± miles east of Highway 101 along a private ranch road near mile marker 6.74, located at 17051 South Highway 101; APN's 050-180-64, 65, 66, 67 and 050-220-13.

RECOMMENDED ACTION: Approve as Recommended by Staff.

Scott Perkins, Project Coordinator, reviewed the staff report and discussed the proposal; including the extraction of materials, location and other use as livestock grazing in the Rangeland (RL) zoning district. He commented that the original use permit was granted in 1987 and was approved with the existing agricultural uses and extraction of up to 20,000 cubic yards of material per year. Mr. Perkins discussed the reclamation plan, which would consist of 2 phases, beginning in the southeast corner of the property and continuing to the northwest along the floor of the project. He stated the end use of the property would be cattle grazing. Mr. Perkins discussed the key issues and findings, noting the project was consistent with the General Plan and Zoning Ordinance and the County's Surface Mining and Reclamation Act (SMARA) Ordinance. He stated the operator was current with all permits and had no known complaints in the past 25 years of operation. He concluded his report noting a memo had been distributed to the Commission making further use permit findings for conformity and stated staff was recommending approval.

Commissioner Krueger commented that the staff report had several typos; page PC-5 conditions, under paragraph 4a. damage to ditches to.. remove "requires", paragraph 5, second to the last line, blasting, notice is required to Comptche, should state Hopland volunteer fire.

The applicant did not wish to speak.

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 Nelson and carried by the following roll call vote (7-0), IT IS ORDERED to approve UR 2012-0004 per the findings and conditions of approval contained in the staff report on page PC-4 through PC-7, and adding the additional findings in the memo dated March 19, 2015 as submitted by staff.

RECOMMENDED ACTION: PBS recommends that the Planning Commission approve Use Permit and Reclamation Plan Renewal #UR 2012-0004 for a period of 25 years based on the following recommended findings and conditions of approval:

FINDINGS:

- 1. 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 Mitigated Negative Declaration is adopted.
- 2. 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.
- 3. Surface Mining and Reclamation Findings:** The Planning Commission approves Use Permit Reclamation Plan Renewal #UR 2012-0004 further finding that implementation of the plan is compliant with Mendocino County Surface Mining and Reclamation Ordinance (Chapter 22.16) and the California Surface Mining and Reclamation Act (SMARA) and will leave the mined land in a usable condition which will be environmentally safe and readily adaptable for appropriate alternative land uses.

Sec. 20.196.020 Findings: Before any use permit may be granted or modified, it shall be shown:

- (A) That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;
- (B) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- (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;
- (D) That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL: Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

- *1. The applicant shall provide to Planning and Building Services a copy of the AQMD letter demonstrating that the quarry is in compliance with all regulations of the Mendocino County Air Quality Management District, including obtaining any required permits necessary for the site of this application.
- *2. In the event that archaeological resources are encountered during normal operation activities at the site, work 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.
- *3. A registered professional engineer or geologist shall review the slopes every 5 years or when the grading is within 100 feet of the final slope configuration for each phase, whichever is sooner, to confirm the slope criteria is met and stable, and report the findings to the Department of Planning and Building Services.
- *4. Prior to operation, the applicant shall produce written confirmation from the Mendocino County Water Agency that the following conditions, as recommended in a letter from the Water Agency on February 4, 2013, have been satisfied:
 - a. Damage to ditches and berms along the access road require shall be repaired to prevent erosion.
 - b. The gravel and reground asphalt stockpiles should be protected from erosion by, for example, wattles secured around the perimeter of the stockpile.
 - c. Damage to culverts draining into the sediment pond shall be repaired or replaced.
- *5. During "high," "very high," or "extreme" fire danger rating levels, the operator shall have a water truck on standby during use of equipment at the quarry. Also during these rating levels, the operator shall provide notice to the Comptche Volunteer Fire Department a minimum of 24 hours prior to blasting activities.
- *6. All non-turbo charged equipment shall have approved spark arrestors installed and shall carry "ABC" type fire extinguisher(s).
- *7. There shall be no on-site fuel storage in association with this project.
- *8. The hours of operation of the quarry shall be limited to between 7 a.m. and 6 p.m. Noise levels created by the operation as measured at the nearest residence other than that of the mine owner or operator shall not exceed the following:
 - a. 65 dBA for a cumulative period of more than 30 minutes in any hour.
 - b. 70 dBA for a cumulative period of more than 12 minutes in any hour.
 - c. 75 dBA for a cumulative period of more than 3 minutes in any hour.
 - d. 80 dBA for a cumulative period of more than 1 minute in any hour.
 - e. 85 dBA at any moment.

9. This permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the permittee to make use of this permit within one year 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 **March 19, 2040**. 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.
10. All recommendations made within the Pieta Quarry Reclamation Plan prepared by Thomas and Franz shall be considered conditions of approval for the subject use permit and reclamation plan. The final reclamation and re-vegetation of the site shall be done in conformance with the said plan.
11. The rock quarry extraction operation shall not exceed 500,000 cubic yards (CY) of rock, and a maximum annual limit of 50,000 CY per year.
12. Annually, prior to July 1st, the applicant shall supply to the Department of Planning and Building Services an accounting of the quantities and types of materials extracted and/or processed from each location that season. The accounting report shall indicate the dates on which the specified volumes were removed, the method used to calculate the volume figures and the signature of the person responsible for completing the report. Such report shall be submitted even if no material was removed that season.
13. The applicant shall submit the appropriate mining inspection and monitoring fee to the Department of Planning and Building Services within 30 days of approval, and on an annual basis until the mine is fully reclaimed. Fee estimates are calculated yearly and may change over the course of the entitlement.
14. 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 **April 3, 2015**. 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.
15. Prior to any change of operators, the applicant shall notify the Department of Planning and Building Services 30 days prior to extraction. The applicant shall provide an accounting of all materials mined by each operator. Any change in operators shall not exempt the applicant/operators from providing required monitoring information.
16. The applicant shall grant access to the property during hours of operation to permit County representatives or any consultants hired by the County for inspection, enforcement, or monitoring activities deemed desirable by the County. The applicant shall designate an individual who is to be available at all times for purposes of supplying information deemed necessary by the authorized County representatives in connection with such work during working hours.
17. 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.
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. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. 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. 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.
20. A copy of the reclamation plan and grading plan shall be kept on site at all times.
22. No material shall be placed into or where it may pass into any stream or watercourse in quantities which would be deleterious to fish, wildlife or other beneficial uses.
- 23a. The applicant shall provide Mendocino County with a cash or surety bond or other acceptable form of financial assurance for the reclamation plan mitigation measures. The bond shall be available to both the County of Mendocino and the Department of Conservation. Any withdrawals made by the County or Department of Conservation for reclamation shall be re-deposited by the applicant within 30 days of notification.

The bond amount shall be calculated based on a cost estimate submitted by the applicant and approved by both County staff and the Department of Conservation for the approved reclamation procedures. The bond shall be established and in place within six (6) months of project approval. Each year, following annual site inspection, the bond amount shall be adjusted to account for new lands disturbed by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved reclamation plan.

The security bond is not set up to replace the applicant's responsibility for reclamation or mitigation, but to assure funding for the reclamation plan and mitigation measures. Should the applicant fail to perform or operate within all the requirements of the approved reclamation plan, the County or Department of Conservation will follow the procedures outlined in Section 2773.1 and 2774.1 of the Surface Mining and Reclamation Act (SMARA), regarding the encashment of the bond and applicable administrative penalties, to bring the applicant into compliance. The requirements for the bond will terminate when the approved reclamation plan and mitigation measures have been completed.

- 23b. Implementation and Verification. The financial assurance shall name both the County and the Department of Conservation as payees per the requirements of AB 3551. The amount will be based on an estimate of reclamation cost provided by the applicant and subject to review by both County staff and Counsel and the Department of Conservation. The financial assurance will be reviewed on an annual basis for adequacy and shall be released when the approved project, mitigation measures and final reclamation plan activities have been completed.
24. Pursuant to Section 2772.7 of the California Public Resources Code, the applicant/operator shall have recorded with the County Clerk, a "Notice of Reclamation Plan Approval" that shall include:
 - a. A statement that "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the County of Mendocino, a copy of which is on file with County Department of Planning and Building Services," and;
 - b. A legal description of the property subject to the said reclamation plan.

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

6c. CASE#: UM 2014-0008 (Continued from 2/19/2015)

DATE FILED: 10/2/2014

OWNER: BARBARA & ROBERT GARIBALDI

APPLICANT: US CELLULAR

AGENT: LATRELL ANDERSON

PROJECT COORDINATOR: DUSTY DULEY

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

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

LOCATION: In the Manchester area lying outside the Coastal Zone on the east side of Highway 1, 0.5± mile north of the intersection of Mountain View Road (CR 510) and Highway 1. Located at 20001 South Highway 1, Manchester; APN 133-110-27.

RECOMMENDED ACTION: Approve as Recommended by Staff.

Dusty Duley, Project Coordinator, reviewed the staff report and discussed the use permit modification and renewal submitted by US Cellular. He discussed a power point of the project and noted the location in Manchester east of Highway 1. Mr. Duley stated that the original use permit was allowed to expire in April of 2014 and the company had submitted a renewal and modification to replace the older whip antennas with panel antennas. He noted the previous hearing on December 18, 2014, at which the Planning Commission heard testimony from a neighbor stating the applicant had failed to install landscaping as required by the previous use permit. Mr. Duley stated the hearing had been continued to allow staff to perform a site view and noted the photos that had been distributed to the Commission. He also discussed several other photos from the power point stating the tower was visible from Highway 1, Crispin Road and Kinney Road. Mr. Duley noted staff had presented a memo with 2 additional special conditions for the Commissions review and noted the expiration date of the permit should be updated to March 19, 2025.

Commissioner Holtkamp noted on page PC-2 that there was no water service and asked what would be available to install landscaping.

Mr. Duley was not aware of how water would be brought to the property and deferred to the agent, although he noted the cattle on the subject property received water somehow and it was possible the applicant could enter into an agreement with the property owner for water.

Chair Warner noted the height of the landscaping was not addressed in the special conditions.

Mr. Duley commented that it was staff's expectation that the landscaping provide a visual buffer to the base station and be adequate to screen the equipment. He stated it was not the expectation to maintain trees to block a 60 foot tower.

Commissioner Hall felt that shielding the building would make the height of the monopine more natural.

Mr. Duley noted that while the applicant had provided photos of a monopine, staff was not recommending the tower be replaced; only the landscaping be applied as conditioned in the previous use permit, which had not been complied with. He stated if the Commission preferred a monopine, new conditions would be needed.

Chair Warner felt the monopine was more unnatural than the tower and preferred landscaping.

Commissioner Little commented that if the equipment shelter was a feed barn on the ridge, there would not be any requirement to camouflage the structure.

Mr. Duley agreed as the property was not in the coastal zone, there were no special regulations on appearance of buildings.

Commissioner Little noted he was not opposed to landscaping, but wondered if disguising the structure as a barn might be better.

Mr. Duley commented that it was the neighbors concern for landscaping and lack of compliance with the original condition that staff had addressed in the special conditions.

Chair Warner noted that the chain link fence in the photo was the most unappealing.

Nicole Goi, agent, thanked staff for completing the site view without a US Cellular representative. She noted that they had provided simulation photos of the monopine to illustrate the unnatural appearance in the location. She commented that they were not opposed to making the structure resemble a barn and stated US Cellular had agreed to landscaping. She noted the drought and was not sure how water would be supplied.

Chair Warner felt a different fence should be included that was more natural and agricultural in appearance.

Commissioner Holtkamp agreed with staff that the cattle were receiving water somehow and thought the agent should discuss an agreement with the property owner. She also felt the fencing should be replaced and the entire site camouflaged in some manner.

Commissioner Ogle noted an alternative for the fence would be the woven plastic panels in the chain link, since the site is some distance away from public views.

Commissioner Hall noted the site appeared "stark" from the distant photos and felt some landscaping was appropriate. He did not think native plants would require much water or maintenance.

Commissioner Little commented that part of the reason there are no trees could be that the site is not suitable for vegetation and landscaping cannot be established.

Commissioner Hall felt it was worthwhile to submit a landscaping opinion from a professional.

Commissioner Little preferred asking for an alternative in the motion that would be landscaping or an alternative to mask the site which was approved by the County.

Chair Warner thought it would be a good compromise to allowing masking and have the proposal approved by the Commission or staff.

Commissioner Little felt staff would be appropriate for review of any stealthing proposal.

Commissioner Krueger agreed with Commissioner Little that there was probably a reason no trees had grown in the area. He also felt the site looked terrible, but did not think vegetation would be successful, regardless of water. He supported an alternative, such as disguising the facility as a barn, changing the fence or another means of permanent camouflage.

The Commission agreed that a monopine would not work in this location.

Commissioner Holtkamp noted there would not have been an issue if the applicant had complied with the landscaping condition as set in 2004. She also felt a different fence was needed.

Ms. Goi also commented that she was concerned the cattle would eat the landscaping.

Chair Warner commented she felt disguising the building would be acceptable, as long as it had an "Ag" appearance and asked who should judge that the camouflage had worked.

Mr. Duley commented that the condition could be modified so that the building would have to be stealthed to the satisfaction of the Department and staff was comfortable making the determination based on the Commission's intent.

Commissioner Hall asked if the need for landscaping was being deleted.

Commissioner Nelson commented that he liked having the option of landscaping or camouflaging the facility to the satisfaction of the department.

Commissioner Little noted that even if the landscaping was planted today, it would be 10 years before it could shield the site.

Commissioner Hall commented that since landscaping would take time to shield the site and asked if some sort of temporary screening should be added.

Chair Warner noted that the neighbor objects to the appearance of the site and stated that since the applicant has not complied with previous conditions, something must be done.

Commissioner Ogle asked if staff had language to change Condition #19.

Mr. Gustavson suggested a short break to revise the condition.

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

[Break 9:55 AM - 10:05 AM]

Mr. Duley clarified the staff memo included two special conditions. He stated that the intent of the memo was to replace Condition #19 with Special Condition #1 and then add Special Condition #2 as Special Condition #1. He suggested the special condition be modified to state, "The applicant shall modify the existing structure to appear as an agricultural accessory building as well as design fencing that would blend in with surrounding landscape."

Chair Warner asked if that should be an additional condition or replace the special condition.

Mr. Duley stated whichever the Commission wished; the condition could replace the special condition or be added in addition to the existing conditions.

Commissioner Krueger commented it was his intent to leave the applicant with an alternative to landscaping.

Mr. Duley noted the Commission could accomplish that by deleting Condition #19 and keeping only the new Special Condition.

Commissioner Hall commented that he would like to see the building disguised and landscaping added, as a two pronged affect, but did not need the specificity of Condition #19.

Mr. Duley stated that if the Commission decided that landscaping was appropriate, Condition #19 could be replaced with more sophisticated language.

Mr. Gustavson stated the condition should be structured like, "in order to reduce the projects potential impacts, the applicant shall...", then pick a condition.

Chair Warner also suggested adding language, to state in part, "and to comply with original use permit requirements,"

Commissioner Little commented that part of the issue was enforceability, as Manchester was not a quick drive. He commented on the burden to the County to ensure compliance with the condition and preferred the option to either landscape or camouflage the site. He stated that if the applicant decided to landscape the site, the County would be charged with inspecting the site to ensure that the landscaping was provided and survives. He noted that his preference was camouflage to minimizing the burden on staff and accomplish the goal of less visual impact.

Commissioner Holtkamp stated the burden should be placed on the applicant to provide verification that they have complied with the conditions. She agreed with the camouflage option due to the severe drought and did not see how landscaping could grow, but felt that whatever was decided, the applicant should provide the verification of compliance.

Chair Warner noted it could be added to the conditions that the applicant submit photographic evidence based on a time period of compliance with conditions at the site.

Mr. Gustavson commented that the most common tool was the landscape bond for a term of 3 years or 5 years. He noted it was cumbersome to administer and felt a more direct approach would be to require the applicant to submit photos to the department annually for the next 5 years, demonstrating that the plants are growing and surviving.

Commissioner Ogle noted that with the drought she would prefer to remove the landscaping requirement and require improved fencing and stealth the building.

Chair Warner and Commissioner Kruger noted they could agree to simply stealthing the facility and adding a new fence and stated only 1 property owner could see the facility. They agreed vegetation seemed like a huge workload for everyone.

Mr. Gustavson noted the Commission may wish to ask the applicants preference on the change of conditions.

Chair Warner noted emphasis should be given to an "Ag appearance" and "wooden fence".

Ms. Goi suggested the Commission leave Special Condition #1 and only change Special Condition #2 to include that, "the applicant shall submit a camouflage/landscaping plan" as she had approval from US Cellular for the landscaping.

Commissioner Hall noted there was no reference to agricultural appearance in the applicants suggestion.

Commissioner Nelson stated that adding slats to a fence was not enough stealthing and more camouflage would be needed.

The Commission agreed that the purpose of the fence was to make the site "invisible" and did not think color would help. Ultimately, they felt something less industrial was needed to screen the equipment.

Mr. Gustavson suggested taking another short break to modify the existing condition language to include camouflage and photo evidence on an annual bases.

[Break 10:31 AM - 10:41 AM]

Mr. Duley read the condition into the record as follows:

The applicant shall install and maintain vegetative landscaping around the Wireless Communication Facility, or as an alternative provide structural camouflaging of the shelter and fence surrounding the facility so as to resemble an agricultural accessory building. Proposal shall be submitted for staff's approval. The applicant shall submit a camouflage/landscaping plan to the Department of Planning and Building Services, to be approved prior to issuance of any building permit. shall consist of a mix of native trees and shrubs of various heights and sizes to be placed in a "random" pattern to appear more natural. Such vegetation shall be planted and maintained in healthy condition in order to help screen the facility from public views and neighboring properties. Applicant shall submit a landscaping plan to the Department of Planning and Building Services, to be approved prior to issuance of any building permit. Camouflaging or landscaping shall be installed prior to building permit being finalized.

Prior to issuance of a building permit the applicant shall enter into a landscape maintenance agreement with the County to ensure the installation and maintenance of required camouflage or landscaping. Failure to maintain camouflaging or landscaping shall be grounds for revocation of the Use Permit. A surety bond shall be required, to insure maintenance of landscaping. If landscaping is installed, the applicant shall provide photographic evidence each year for the next five years demonstrating compliance with this condition.

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp and carried by the following roll call vote (7-0), IT IS ORDERED to approve UM_2014-0008 per the findings and conditions of approval contained in the staff report on pages PC-3 through PC-6 , modifying the expiration date to March 19, 2025, and replacing Condition #19 to read, "The applicant shall install and maintain vegetative landscaping around the Wireless Communication Facility, or as an alternative provide structural camouflaging of the shelter and fence so as to resemble an agricultural accessory building. The applicant shall submit a camouflage/landscaping plan to the Department of Planning and Building Services to be

approved prior to issuance of any building permit. Camouflaging or landscaping shall be installed prior to any building permit being finalized. Prior to issuance of a building permit the applicant shall enter into a maintenance agreement with the County to ensure the installation and maintenance of required camouflage or landscaping. Failure to maintain camouflaging or landscaping shall be grounds for revocation of the Use Permit. If landscaping is installed, the applicant shall provide photographic evidence each year for the next five years demonstrating compliance with this condition."

RECOMMENDATION: That the Planning Commission APPROVE Use Permit Modification #UM 1-2004/2014 subject to the findings and conditions of approval recommended by staff:

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

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

Project Findings:

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

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

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

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

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

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

CONDITIONS OF APPROVAL:

1. This permit is issued for a period of ten years, and shall expire on ~~December 18, 2024~~ **March 19, 2025**. The applicant has the sole responsibility for renewing this permit before the expiration date. The County will not provide a notice prior to the expiration date. All previous Use Permit entitlements governing this site with respect to the subject cell tower shall be modified to ~~December 18, 2024~~ **March 19, 2025** as well.

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

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

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

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

3. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices": The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
 - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
 - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
 - d. Temporary erosion control measures shall be in place at the end of each day's work, and shall be maintained until permanent protection is established.
 - e. Erosion control measures shall include but are not limited to: seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.
 - f. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
 2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.
4. Exterior light fixtures shall be designed or located so that only reflected, non-glaring light is visible from beyond the immediate vicinity of the site, and lights shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.
5. Prior to any work within the County or State road right-of-way, including the installation of underground utility services, the applicant shall obtain an encroachment permit from the appropriate transportation agency.
6. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.
7. If use of any portion of the proposed facility is discontinued for more than one year, all parts of the facility not in use, above grade, shall be completely removed from the site, and the site shall be restored to a natural-appearing condition.
8. Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the facility and restoration of the site in the event that the applicant abandons operations or fails to comply with requirements for removal of facilities and restoration of the site.
9. In the event that archaeological resources are encountered on the site, further disturbance in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
10. The facility shall provide if requested, space for any public emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.

11. Prior to the final inspection by the Building Division, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger one square foot, shall be mounted on an exterior wall in a location visible when approached from the street, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.
12. The antennas and supporting structure shall be inspected every ten years, and following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity, and a report of the engineer's findings shall be submitted to the Planning and Building Services Department.
13. Prior to commencement of operations, all surplus construction materials and debris, including cleared vegetation, shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.
14. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
15. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.
16. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
17. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:
 - a. That the permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which the permit was granted have been violated.
 - c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.
18. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.
- ~~19. The applicant shall install landscape screening around the wireless communication compound. The screening shall consist of a mixture of five-gallon native trees and shrubs, planted on a maximum of eight-foot centers. Such vegetation shall be planted and maintained in healthy condition in location to screen views from all neighboring properties and public views. All vegetation shall be non-invasive and indigenous to the area.~~
19. The applicant shall install and maintain vegetative landscaping around the Wireless Communication Facility, or as an alternative provide structural camouflaging of the shelter and fence so as to resemble an agricultural accessory building. The applicant shall submit a camouflage/landscaping plan to the Department of Planning and Building Services to be approved prior to issuance of any building permit. Camouflaging or landscaping shall be installed prior to any building permit being finalized. Prior to issuance of building permit the applicant shall enter into a maintenance agreement with the County to ensure the installation and maintenance of required camouflage or landscaping. Failure to maintain camouflaging or landscaping shall be grounds for revocation of the Use Permit. If landscaping is installed, the applicant shall provide photo evidence each year for the next five years demonstrating compliance with the condition.
20. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site and to require no more than a reasonable charge for collocation.

21. Exterior surfaces of structures and equipment shall have subdued colors and non-reflective materials selected to blend with their surroundings. Color samples shall be submitted to the Department of Planning and Building for approval.
22. The total height of facility including antennas will not exceed 60 feet in height above ground level. Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height. Exceeding this height limitation shall require a modification of this Use Permit.
23. Existing trees and other vegetation, which will provide screening for the proposed facility and associated access roads, shall be protected from damage. No trees that provide visual screening of the communications facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility.
24. Future modifications shall be considered cumulatively to determine if request constitutes a "substantial change" to the facility under applicable federal law.

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

6d. CASE#: R_2013-0001/U_2013-0001

DATE FILED: 1/2/2013

OWNER/APPLICANT: RANGJUNG YESHE GOMDE CALIFORNIA

AGENT: JOANNE BRION

PROJECT COORDINATOR: JOHN SPEKA

REQUEST: The request includes three separate entitlements: 1) a rezone of that portion of property that is currently designated Rural Community in the General Plan, approximately 32± acres, from SR (Suburban Residential) to RC (Rural Community), 2) a Contract Rezone to allow for the use type "Transient Habitation- Resort and Recreational Facility" within the SR zoned area of the property in conjunction with the proposed RC zoning on the northern portion of the property which allows for the use with a major use permit, and 3) a major use permit to allow for the legal establishment and expansion of the existing resort and recreational use for up to 150 people which has existed on the site in some form or another over the years.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

LOCATION: In Leggett, lying 1± mile south of Leggett Community Center, south of Highway 271 (aka Drive Thru Tree Road), just west of its intersection with Highway 101, located at 66000 Drive Thru Tree Road; APN's 053-400-23, -55, -56, -57, -58 and -59.

RECOMMENDED ACTION: Recommend approval to the Board of Supervisors.

John Speka, Project Coordinator, reviewed the staff report and discussed a power point of the project. He reviewed the three components included in the request, stating a portion would be rezoned from Rural Community; a second portion would be placed under a Contract Rezoning to Suburban Residential, and would also require a Use Permit to allow for the existing resort and recreational use of up to 150 people. Mr. Speka discussed the current infrastructure of the property, noting direct access from Highway 101, various springs, location of the CalFire station and volunteer fire department. He continued with the power point and noted the property had been used a religious retreat since the late 1990's and the proposal before the Commission was brought by the applicant to make the nonconforming use allowable in the zoning designation. Mr. Speka noted that in staff's review of the contract rezoning with County Counsel, it was noted that contracts normally restrict the use of properties, not expand on the use; therefore staff would be requesting a continuance after the public hearing to allow for a more appropriate re-characterization of the project to be prepared which would not include the need for a contract rezone.

Andy Gustavson, Chief Planner, discussed how the process should proceed, allowing the public hearing to take place and also use permit deliberation as those matters would remain constant. He noted the report would be revised to discuss how the project is compatible with the land use in the area and should be considered as establishing a nonconforming use. He recommended the Commission continue the discussion to the April 16, 2015 hearing after allowing public testimony.

Commissioner Little commented that there was no question of the historical use of the property and it was documented in the report. He stated that the report indicated expansion of the use was acceptable and an accepted practice and did not see why the hearing should be continued.

Mr. Gustavson felt the establishment of the campground was deficient of required use permit findings.

Commissioner Little asked staff if the contract was based on fact of the historical use of the property.

Mr. Speka stated, to the best of his knowledge, the contract was true and correct.

Mr. Gustavson commented that staff was not in possession of all the records used establishing the nonconforming use, more specifically the Assessor's Office records of the campground.

Matt Kiedrowski, Deputy County Counsel, commented that it was legal or permissible to proceed with the hearing, but felt it was better to have complete information for the Commission by continuing the item to the next meeting.

Commissioner Little understood staff's perspective, but commented that he preferred not to continue items and felt there was sufficient information for the Commission to make an informed decision. He did not think the applicant should have their project continued to satisfy an administrative process.

Mr. Speka noted that the department had over 50 letters of support on file and 1 letter of opposition based on water services and traffic impacts, which staff did not feel were significant.

Chair Warner commented that she would like to see no future subdivisions allowed in the use permit conditions as had been part of the contract rezone.

Mr. Gustavson noted that adding the subdivision condition to a use permit would be an issue and commented that the appropriate tool would be to "cap the intensity" of the use.

Ryan Demra, Vice President of the organization, stated he resides on the property and stated the facility was part of an international network of Buddhist Monasteries. He discussed the organization's intent to create as "little a footprint" as possible and presented a power point of the services provided at the center, noting the easy access from the freeway.

Joanne Brione, agent and treasurer of the organization, discussed the history of the property from before it was purchased, noting the 250± acres had been used for timber production, a fire station in the 1920s, a fish hatchery in the 1950s, a horse camp and dude ranch, etc. She discussed the volunteer basis of activities and noted that she was not sure exactly what changes staff was proposing to make as she was just informed of the issue. She noted her understanding was that the expansion of the nonconforming use was allowed and the contract rezone was the method proposed. She stated the goal of the organization was to make the zoning consistent with the activities at the property was used for, which seemed to lie within "transient habitation" of Rural Community zoning.

Bruce Hammond, board member, further discussed the power point and elaborated on the layout of the property. He discussed expansion proposals, location of 2 springs and various water tanks, the fire suppression system. He noted the remote location of the property created ideal circumstances for meditation and noted several secluded meadows and forested areas.

Ms. Brione noted that she had not had the opportunity to discuss the new process and continuance with her colleagues, but was trying to work with the County and stated their schedule could accommodate the continuance if required.

Chair Warner asked how many people live on the property full time.

Ms. Brione noted there were always 2 caretakers on site and most months with maintenance and part time contractors, a total of 4 to 5 individuals. During summer internship programs, there were up to 60 days when 25 people or more lived on the site. The public hearing was declared open.

Onju Updegrave noted she had mailed in a letter of support for the project and stated that since Rangjung had purchased the land, she has seen a tremendous improvement in the property. She felt it was well managed, and that the fire danger had been mitigated.

Michio Ishihara noted his support for the project and stated he was a teacher at the Buddhist Temple. He was in support of upgrading the facility and expressed the importance of variety of cultural events in the County. He did not think the proposal would have harmful effects on the environment or economy.

Dorothy Bond was also in support of the proposal and noted she regularly visited the resort and felt more development would bring in more Buddhist practitioners. She noted the growing membership meant that now was a good time to be consistent with the County land use regulations.

Frank Lynch stated his support of the project and noted his involvement with the application "behind the scene". He noted his past experience with the applications process in Mendocino County and noted the County's ability to attract nonprofit organizations, such as Rangjung, which he characterized as a group of professionals focused on what they want and making their permits "right". He felt it was unprofessional to make the applicant wait until the hearing date to find out the project request had been changed and then to ask that the hearing be continued for an additional month. He noted that the Planning Commission was advisory to the Board of Supervisors for the Rezone and felt the Commission could proceed with the hearing. He noted other applications around the County which had been approved with a contract rezone that provided an expansion of use.

Chair Warner noted the public hearing would remain open until the next meeting.

Mr. Lynch asked the Commission to consider placing the item on the consent calendar.

Mr. Gustavson noted the consent calendar would not be appropriate as the purpose of the continuance was to submit information regarding the nonconforming status of the uses into the record and allow further deliberation by the Commission.

Chair Warner clarified that there were written documents on the historic use and new findings that would be presented to the Commission.

Mr. Gustavson stated that one letter was the Director's Determination from Ignacio Gonzales regarding nonconforming uses and the second was a letter from the Assessor's Office regarding the records on the dwellings.

Commissioner Little commented that there seemed to be little discussion left on the item and the hearing should be brief upon its return to the Commission.

Mr. Gustavson agreed and felt the Commission could deliberate on the issues and findings for compatibility of the use and focus on the nonconformity and allowance for expansion. He asked that any issues be brought to staff's attention to clarify before the next meeting.

Chair Warner noted the Commission would start with the environmental document.

Commissioner Holtkamp asked why the entire parcel was not being rezoned to Rural Community.

Mr. Speka stated the zoning was not compatible with the General Plan classification of SR.

Commissioner Little commented that he had no issues with the project however he felt that future items should present an evaluation of emergency services to remote locations. He noted that with large numbers of people in outlying areas, the ambulance service would be dispatched from Fortuna or Laytonville. He did not think the analysis was necessary for this project, but asked that any future projects like this current proposal have some analysis of how medical services will be provided with some assurance that there are adequate services available.

Mr. Gustavson stated the Commission could not vote on approval of the item, but they could discuss any issues that needed to be resolved prior to the meeting.

Chair Warner commented that she did not see any issues with the project and was comfortable supporting the request.

All Commission members stated the information was largely well done and they were in support of the project.

Mr. Gustavson noted staff would provide additional findings and support of the determination for the next meeting.

Chair Warner commented that she would like a way to disallow future subdivisions.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall and carried by the following roll call vote (7-0), IT IS ORDERED to continue R_2013-0001/U_2013-0001 to the April 16, 2015 Planning Commission meeting.

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

Chair Warner noted that when the Commission returned from lunch, they would be seated in the audience for Brown Act and Ethics training with other individuals and the microphones would be off.

7. Matters from Staff.

Commissioner Ogle asked when the subdivision for Snow Mountain would be coming back before the Commission.

The clerk noted the item had been continued to the April 16, 2015 meeting and was on the next agenda.

Mr. Dunicliff noted staff was planning a Special Planning Commission meeting on June 4, 2015 to discuss the Williamson Act Ordinance update.

Commissioner Ogle noted she would be absent in May and for the June 4th Special Meeting.

Commissioner Little noted he would also be absent in May.

8. Matters from Commission.

Chair Warner asked if the Commission would have a reviewing role in the solid waste transfer station and the EIR that the City of Fort Bragg was meeting to discuss.

Mr. Gustavson commented that was a great question and thought the property was owned by the City. He was not sure, but thought the item might be heard directly by the Board.

Chair Warner commented that if the Commission was to review the document, they would like to receive it sooner rather than later as it was extremely large and thick.

Mr. Dunicliff stated staff would research and get back to the Commission.

[Lunch 12:07 PM - 1:00 PM]

6e. **TIMED ITEM: 1:00 PM to 3:00 PM**
Brown Act & Ethics Training- Presented by County Counsel

Doug Losak, Interim County Counsel presented Brown Act and Ethics Training for the Planning Commission, staff, Special Districts and other appointed committees.

Upon completion of training, Commissioner Little and Commissioner Nelson left the chambers.

9. **Adjournment.**

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp, and unanimously carried (5-0), IT IS ORDERED that the Planning Commission hearing adjourn at 3:12 p.m.