



## COUNTY OF LAKE

### COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division  
Courthouse - 255 N. Forbes Street  
Lakeport, California 95453  
Telephone 707/263-2221 FAX 707/263-2225

Item # 3

9:10 AM

### (Request Continuance to 8/25/22) August 11, 2022 STAFF REPORT

**TO:** Planning Commission

**FROM:** Mary Darby, Community Development Director  
Eric Porter, Associate Planner

**DATE:** August 11, 2022

**SUBJECT:** **Cache Creek Telecommunication Tower.** Major Use Permit, UP 22-20; and Initial Study, IS 22-21. Proposed is a 150' tall lattice wireless communications tower with equipment. Location: 20114, 20226 and 20662 E. Highway 20, Clearlake Oaks, CA. APNs: 010-009-39, 010-009-42 and 010-009-40.

Supervisor District 3

**ATTACHMENTS:**

1. Vicinity Map
2. Application materials
3. Zoning District
4. Letters of Support – Emergency Service Providers
5. Initial Study, IS 22-21
6. Agency Comments
7. California Dept. of Fish & Wildlife Letter dated October 25, 2018.
8. National Environmental Policy Act FCC-Focused Checklist Evaluation dated January 9, 2019.
9. Proposed Conditions of Approval
10. Five Mile Coverage Map (all carriers)

#### **I. EXECUTIVE SUMMARY**

On March 21, 2017, the applicant submitted a Major Use Permit, UP 17-03 pursuant to Article 27, Section 27.11, Table B (ar) and Article 42, Section 42.14 *"Height Exceptions, General: The maximum height limitations of this Article and Chapter may be exceed upon securing a major use permit"* to allow the construction of an over height Wireless Telecommunication Facility located approximately 6.5 air miles Southeast of Clearlake Oaks, California and approximately one (1) mile to the north of California Highway 20. The tower is proposed at 190 feet, exceeding the allowable height by forty (40) feet.

The Planning Commission approved the tower on February 28, 2019. However no building permits were submitted for the tower, and the use permit expired.

On June 1, 2022, the applicant submitted a new use permit, file No. UP 22-20 for the same tower on the same site and property.

Originally, the applicant proposed to construct a 150 foot tall lattice tower with an additional 20 foot tall VHF Master RX Whip Antenna for Public Safety Systems for an overall height of 170 feet. However, according to the applicant, upon further evaluation, it was determined due to the

emerging wireless technologies (such as the nationwide wireless telecommunications network dedicated to public safety that AT&T has been selected to construct – i.e. the First Responder Network Authority, a/k/a First Net, an independent authority established by Congress) and how microwave paths travel from the original proposed height of 170 feet, the ridgeline approximately one (1) mile west of project site would likely cause physical interference with the path.

Therefore, the applicant is now requesting approval of the Major Use Permit, UP 22-20 to allow an over-height, unmanned 170 foot tall lattice wireless telecommunication tower, with an additional twenty (20) foot Tall VHF Master RX Whip Antennas for Public Safety Systems, which brings the overall height to approximately 190 feet. The proposed tower would allow up to four (4) major wireless network/providers as well as an area for public safety providers and smaller commercial wireless providers.

According to the applicant and the revised project Description dated January 28, 2019, all other aspects of the original tower and compound design would remain the same. The proposed 190-foot lattice tower would be contained within a leased area approximately 10,000 square feet in size (100 X 100) with a six (6) foot perimeter fence. The proposed tower would consists of the following:

- An 800 Amp Multi-Meter Electrical Service Panel
- One (1) - twenty (20) foot tall VHF MASTER RX Whip for Public Safety Systems.
- Four (4) future carrier ground lease areas.
- Four (4) future carrier antenna centerlines
- Four (4) microwave dish and appurtenance centerlines.
- One (1) future public safety systems ground lease area and antenna centerlines.

Currently, the project site is accessible from an existing fifty (50) foot wide utility easement beginning from California Highway 20 according to a “Declaration Creating Road and Utility Easements (*Doc. # 006964443*) dated January 23, 1979 from the Lake County Recorders/Assessor Office.

Shortly, before entering the area to be developed the easement narrows to approximately twenty (20) feet in width (*Refer to Attachment 2 for details*). According to the applicant, the existing access easement crosses Middle Creek at a naturally elevated location which has been used by the residence on APN 010-009-42 and the Yolo County Flood Control and Water Conservation District State - 312 High Voltage Facility for more than twenty (20) years. The applicant submitted a letter dated August 10, 2018, from the California Department of Fish and Wildlife. The letter, indicates, the applicant is in the process of submitting and obtaining the Notification of Lake or Streambed Alteration Agreement pursuant to California Fish and Game Code Section 1602. No further status update on this Agreement has been provided to staff.

The applicant proposes to adjust the existing access road/easement on APN 010-009-42; the existing access easement/roadway approximately 10 to 15 feet west of its current location. The relocation of the roadway would improve the management of the roadway's drainage and help improve the long term viability of the access road for the Telecommunication Facility, Yolo County Flood Control, and Water Conservation District Station 312 High Voltage Facility, surrounding residents, and emergency personnel. In order to move the roadway ten (10) to fifteen (15) feet to the west, approximately two (2) oak trees with a breast height diameter greater than five (5) inches would have to be removed.

Staff recommends **the Planning Commission** adopt IS 22-21 and **Approval** of Use Permit UP 22-20 based on the findings in this report and the proposed conditions of approval (Attachment 9).

## II. PROJECT DESCRIPTION

Applicant: ComSites West

Owner: Gary Shawl

Location: 20114 (APN: 010-009-39), 20226 (APN: 010-009-42) & 20662 (APN: 010-009-40) E. State Highway 20; Clearlake Oaks, CA

A.P.N.: 010-009-42 (*Project Parcel*) and 010-009-39 & 010-009-40 (*Access Only; 50 foot wide Utility Easement: "Declaration Creating Road and Utility Easements (Doc. 006964443) recorded with the Lake County Recorders/Assessor Office.*

Parcel Size: ±505 acres in size (010-009-42 – Project Parcel)  
±96 acres in size (010-009-40- Access only)  
±31 acres in size (010-00-39 – Access only)

General Plan: Agricultural (010-009-42) and Rural Lands (010-009-39 & 010-009-40 – Access Only)

Zoning: "APZ-FF-WW-SC" Agricultural Preserve Zone – Floodway Fringe – Waterway –Scenic Combining (010-009-42 – project parcel).

"RL- FF-WW-SC – Rural Lands – Floodway Fringe – Waterway –Scenic Combining (010-009-39 & 010-009-40 – Access Only)

Flood Zone: Project parcel (010-009-42) is not located within a flood zone and access parcels only (010-009-39 & 010-009-40) are located within Flood Zone A due to their proximity to the North Fork of Cache Creek.

## III. PROJECT SETTING

Existing Uses and Improvements: The project parcels are developed with single family dwellings, accessory structures and have had agricultural uses in the past.

Surrounding Zoning and Land Uses:

<b>Direction:</b>	<b>Zoning:</b>	<b>Lot Size:</b>	<b>Developed:</b>
North	APZ, O	70 to 500 acres	Vacant
East	RL, O	30 to 400 acres	Vacant
South	RL, O	20 to 150 acres	Dwellings; Hwy 20
West	APZ, RL	20 to 200 acres	Vacant

Topography: The project site is located on a rural parcel with slopes that range from less than 10% to greater than 30% that have been previously used for grazing lands. The tower will be located on land that is less than 10% slope.

Soils: According to the soil survey of Lake County prepared by the U.S.D.A, the parcel contains the following soil types:

- **Tower Site:** Phipps "complex, 5-15% slopes (195): This soil classification is deep and well drained. The permeability is slow with a water capacity of approximately six to 12

inches. The surface runoff is rapid and the hazard of erosion is moderate to severe. The shrink-swell potential is moderate to high.

- Bally-Phipps complex; 15-30% slopes (107): This soil classification is deep and well drained. The permeability is slow with a water capacity of approximately five to seven inches. The surface runoff is rapid and the hazard of erosion is moderate to severe. The shrink-swell potential is moderate.
- Riverwash, 0-10% slopes (199): This map unit is an active stream channel. The runoff is very slow to rapid and the hazard of erosion is very severe depending on water velocity. River wash is used mainly a wildlife habitat and as a source of sand and gravel.
- Xerofluvents - Riverwash complex, 0-2% slopes (249): This map unit is on narrow flood plains adjacent to stream channels and in active stream channels. The surface runoff is very slow and there is no hazard of erosion, except along the streams where there is severe streambank erosion during high-intensity storms. These soils are subject to frequent flooding in winter and spring.

Water Supply: Existing Onsite Well(s)

Sewage Disposal: Onsite Wastewater Management System (Septic)

Fire Protection: Northshore Fire Protection District. The site is not within the LRA, but is mapped as 'moderate risk for wildfire' on CalFire's map.

#### IV. PROJECT ANALYSIS

##### General Plan Conformance

The General Plan land use designation of this site is Agriculture.

Agricultural land use category includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. One purpose of this land use category is to protect the County's valuable agricultural resources and to prevent development that would preclude its future use in agriculture. These lands are actively or potentially engaged in crop production, including horticulture, tree crops, row and field crops, and related activities. These lands also provide important groundwater recharge functions. As watershed lands, these lands function to collect precipitation and provide for important filtering of water to improve water quality. They are generally supportive to the management of the natural infrastructure of the watersheds.

**Response:** *The project parcels are not engaged in agricultural uses even though APN 42 is in an active Williamson Act Agreement. The placement of the antenna will not conflict with any future potential agricultural uses on the subject site due to the tower's relatively small footprint of 10,000 sq. ft. (100' x 100'). Approval of the Major Use Permit would be consistent with the Lake County General Plan, as a Telecommunication Facility is permitted in the "A" - Agricultural Zoning District upon issuance of a Major Use Permit (Article 27.11(ar) Table B of the Lake County Zoning Ordinance).*

Rural Lands land use category is to allow rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. The category is appropriate for areas that are remote, or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves and fisheries. Other typical uses permitted

conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields.

**Response:** *The project parcel is located in a rural area of the county, and is located approximately 6.5 air miles southeast of Clearlake Oaks and lies approximately one (1) mile to the north of State Highway 20. The surrounding topography is characterized with steep slopes and limited access.*

*The project parcels are accessible through an existing fifty (50) foot wide utility easement beginning from California Highway 20 according to a "Declaration Creating Road and Utility Easements (Doc. 006964443) dated January, 23, 1979 from the Lake County Records/Assessor Office. The majority of the project parcels are undeveloped, except for single family dwellings and accessory structures.*

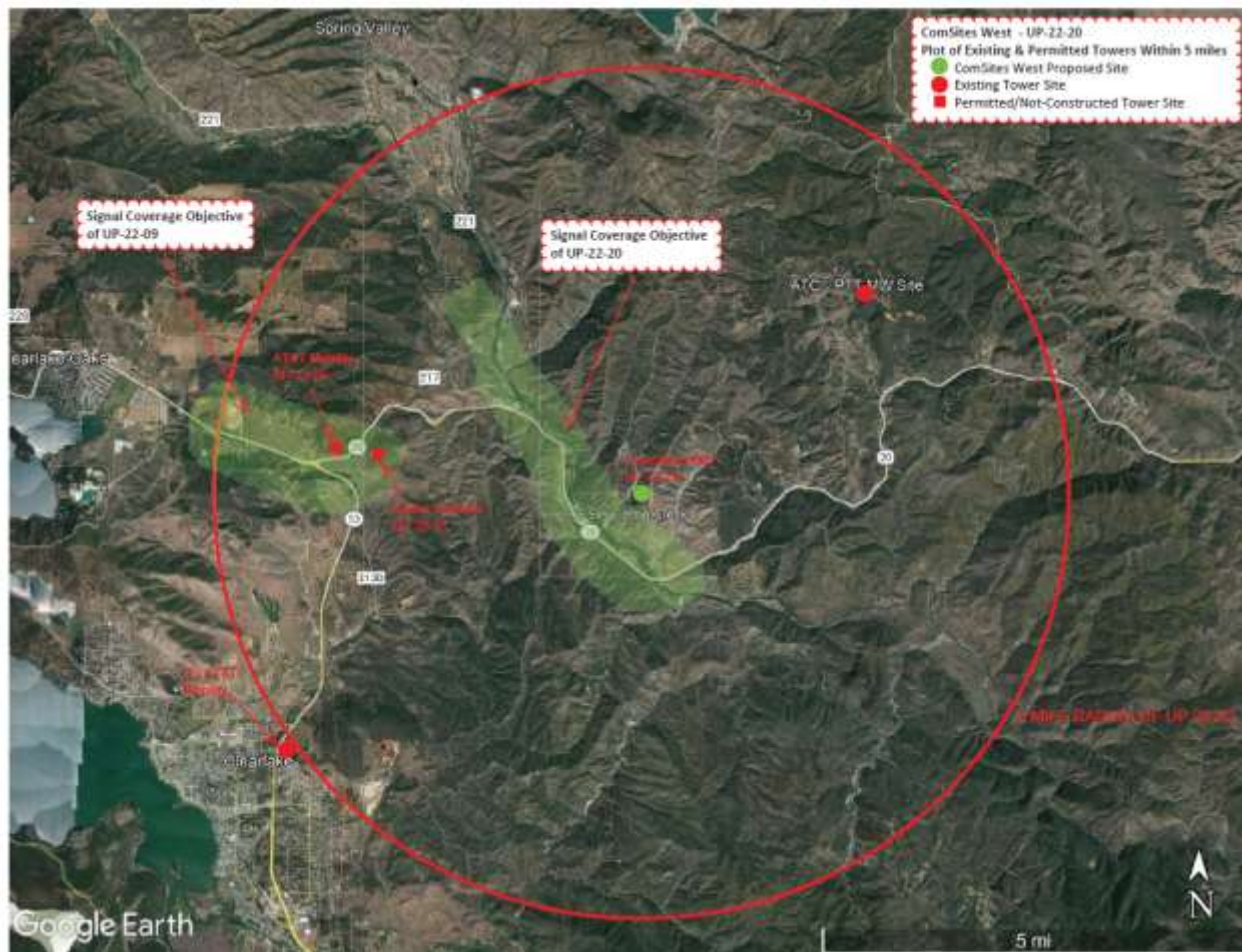
#### County of Lake General Plan (2008) - Section 5.7 - Communications Systems

Goal PFS 7: To expand the use of informational technology in order to increase the County's economic competitiveness, develop more informed citizenry, and improve personal convenience for residents and business in the County.

- Policy PFS -7.1: The County shall work with telecommunications providers to ensure that all residents and business will have access to telecommunication services, including broadband internet services. To maximize access to inexpensive telecommunication services, the County shall encourage marketplace competition from multiple service providers.

**Response:** *Telecommunication towers facilities are essential in helping maintain the County's welfare, including public safety. Public safety agencies rely heavily on wireless Communication Facilities throughout our county to effectively communicate among one another but also to alert the general public regarding local emergencies and/or natural disasters. The development of additional wireless communication facilities throughout our County, would greatly improve the communication capabilities of our public safety agencies, and the residents and/or businesses of Lake County, especially in areas with limited wireless communication coverage.*

#### **Tower Site with Five Mile Coverage Radius**



### **Shorelines Communities Area Plan**

The Shoreline Communities Area Plan is a guide for long term growth and development in the planning area and is complement the General Plan.

**Objective 5.4.5:** “Ensure the orderly development of communication and energy systems in order to increase economic competitiveness, keep the public informed, and improve personal convenience for both residences and businesses”

- **Policy 5.4.5(a):** Provide reliable and cost effective telecommunication services within the planning area

***Response:*** Telecommunication towers facilities are essential in helping maintain the County’s welfare, including Public Safety. Public Safety Agencies rely heavily on Wireless Communication facilities throughout our County to effectively communicate among one another but also to alert the general public regarding local emergencies and/or natural disasters. The development of additional wireless communication facilities throughout our County, improves the communication capabilities of our public safety agencies, and the residents and/or businesses of Lake County, especially in areas with limited wireless communication coverage.

### **Zoning Ordinance Conformance.**

The proposal must meet the applicable requirements found within Lake County Zoning Ordinance for the following Articles:

Article 4 – Agricultural Preserve Zone “APZ” Zoning District:

The purpose of Agriculture Preserve Zoning district is to allow for the conservation and protection of land capable of producing agricultural products. The uses specified in this section have been determined to be compatible uses consistent with the California Land Conservation Act of 1965.

**Response:** *The project parcels are not engaged in agricultural uses even though APN 42 is in an active Williamson Act Agreement. In addition, the placement of the antenna will not conflict with any future potential agricultural uses on the subject site due to the tower’s relatively small footprint of 10,000 sq. ft. (100’ x 100’). Further, approval of the major use permit is consistent with the Lake County Zoning Ordinance as a Telecommunication Facility is permitted in the “APZ” - Agricultural Preserve Zone upon issuance of a Major Use Permit (Article 27.11(ar) Table B of the Lake County Zoning Ordinance.*

Article 7 – Rural Lands “RL” Zoning District:

The purpose of Rural Lands is to provide for resource related and/or residential uses of the County’s undeveloped lands. Typical these lands are remote and often characterized by steep topography, fire hazards, and limited access.

**Response:** *Approval of the Major Use Permit is consistent with the Lake County Zoning Ordinance as a Telecommunication Facility is permitted in the “RL” – Rural Lands Zoning District upon issuance of a Major Use Permit (Article 27.11(ar) Table B of the Lake County Zoning Ordinance.*

Article 34 – Scenic Combining “SC” Combining District:

The purpose of the Scenic Combining “SC” Combining District is to protect and enhance views of scenic areas from the County’s scenic highways and roadways for the benefit of local residential and resort development, the motoring public, and the recreation based economy of the County.

**Response:** *The project parcel is located off of State Highway 20, which is considered a Scenic Corridor. The Scenic Combining District extends approximately 460 feet from the center of State Highway 20 outward.*

*The Scenic Combining District is within the access parcels (010-009-39 & 010-009-40) and only a small southeast portion of the project parcel (approximately 10 acres in size) is within the Scenic Combining Overlay District.*

*The area to be developed within the project parcel (010-009-42) is outside the Scenic Combining Overlay District. Once constructed, the proposed wireless communication facility may be somewhat visible to motorists and adjacent residents. The wireless communication facility is designed and sited in a manner that would not obstruct views of the natural features and scenic resources in the area, consistent with County policies for preserving scenic resources such as General Plan Policy PFS 7.3 and Shoreline Community Area Plan Policy 5.4.5a. Additionally, the proposed facility would be designed similar to the existing Yolo County Flood Control and Water Conservation District State 312 High Voltage Facility.*

*Visual simulations were conducted from eight (8) public vantage points along State Highway 20. As shown in Attachment 2 (Proposed Project Packet – Plans Included), the natural topography of the surrounding area, the existing vegetation and viewing distance would help screen the proposed communication tower. Additionally, the proposed wireless communication facility has been designed to blend in with the nearby Yolo County Flood Control and Water Conservation District State 312 High Voltage Facility, including over-head power lines. Therefore, the*

*proposed antenna would not substantially degrade the visual quality of the area or degrade views of a scenic vista*

Article 36 – Floodway Fringe “FF” Combining District:

The purpose of Article 36 is to provide land use regulations for properties and their improvements situated in the floodplain to ensure protection from hazards and damage which may result from flood waters.

**Response:** *The only portion of the project situated within Flood Zone “A” is the existing 50 foot wide Utility Easement that runs through parcel numbers 010-009-39 and 010-009-40. The existing access easement, has been recorded with the Lake County Records/Assessor Office (Doc. 006964443 - 50 foot wide Utility Easement: “Declaration Creating Road and Utility Easements)*

*Additionally, according to a letter dated October 25, 2018, from the California Department of Fish and Wildlife, on August 9, 2018, the applicant submitted a Draft Notification of Streambed Alteration (notification) to the California Department of Fish and Wildlife and is in the process of obtaining a Notification of Lake or Streambed Alteration Agreement pursuant to California Fish and Game Code Section 1602. (Refer to Attachment 7 for details).*

Article 37 – Waterway “WW” Combining Zoning District:

The purpose of Article 37 is to preserve, protect and restore significant riparian systems, streams, riparian, aquatic and woodland habitats, protecting water quality, erosion control, sedimentation/runoff and protecting the public’s health and safety by minimizing dangers due to flood and earth slide.

**Response:** *The project parcel contains Middle Creek, a perennial waterway (year around). Pursuant to Article 37 (Waterway Combining District), Section 37.3(b) the minimum setback for perennial waterways shall be thirty (30) feet from the Top of Bank. According to the Project Descriptions and Site Plans dated December 13, 2018 all development would be greater than one (1) mile [5,280 feet) away from the top of bank.*

*However, the existing fifty (50) foot wide utility easement beginning from State Highway 20 crosses Middle Creek at a natural ford which has been used by the residence on APN 010-009-42, including the Yolo County Flood Control and Water Conservation District State 312 High Voltage Facility for more than twenty (20) years (Doc. 006964443 - 50 foot wide Utility Easement: “Declaration Creating Road and Utility Easements). Therefore, prior to the issuance of any permits, the applicant shall obtain and maintain all required permits from the California Department of Fish and Wildlife and the California Valley Regional Water Quality Control Board. The applicant shall contact the above agencies for details and submit written verification to the Community Development Department within 30 days of permit(s) issuance. If the agencies determine permits are not necessary, the applicant shall obtain written verification from the above agencies to the Community Development Department.*

*Additionally, the applicant shall incorporate Best Management Practices (BMPs) to the maximum extent possible to prevent and/or reduce any potential discharge of all construction, including post construction pollutants into the surrounding waterways/riparian corridor and/or the County Storm Drainage System. The measures shall be maintained for life of the project. Conditions of approval are in place to ensure the applicant(s) adheres to such requirements. (Attachment 9).*

Government Code – Telecommunication Act of 1996

Federal and state laws pre-empt and limit local government with respect to decisions about telecommunication facility siting. The Telecommunication Act of 1996 allows local government some authority, but it is clear that a local government can only regulate the design and location



of telecommunication sites, i.e., “the placement, construction and modifications of the facilities (Section 704 (a) General Authority)”.

*Telecommunication Act of 1996; Section: 704. Facilities Siting; Radio Frequency Emission Standards.*

- (iv) *“No state or local government or instrumentality thereof may regulate the placement, construction and modification of personnel wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commissions regulations concerning such emissions.”*

*Response: This staff report evaluates this proposed telecommunications tower at this location, and lists the applicable review standards and criteria for the cell tower, as well as compliance with all adopted Plans that apply to this proposal. The recommendation at the end of this report is based on findings of compliance with the applicable standards, criteria, policies, goals and objectives of the County.*

## **V. ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of their actions. Please refer to *Initial Study IS 22-21* (Attachment 5) for the Environmental Analysis of the proposed Communication Tower. Any potential environmental impacts have been reduced to less than significant with the incorporated Mitigation Measures and Conditions of Approval.

Staff recommends a Mitigated Negative Declaration (MND) to ensure reduction of potential environmental impacts to ‘less than significant’ levels, primarily during construction.

The following areas were identified as having potential environmental impacts; the mitigation measures listed are intended to reduce these impacts to ‘less than significant’.

### **Air Quality**

The project parcels are located in a rural area of the county with limited development. The project has the potential to result in short- and long-term air quality impacts. Dust and fumes may be released as a result of vegetation removal, grading, and use of construction equipment. Once constructed, approximately two (2) vehicle trips per month are anticipated to be generated by this project for routine and ongoing maintenance. Therefore, the implementation of the mitigation measures below would reduce any potential Air Quality impacts to less than significant.

- Mitigation Measure AQ-1: Vehicular and fugitive dust shall be minimized by use of water or acceptable dust palliatives on all driveways, roads and parking areas to maintain two inches of visibly-moist soil in the project area and to ensure that dust does not leave the property.
- Mitigation Measure AQ-2: Work practices shall minimize vehicular and fugitive dust during the wireless communication facility development and management by use of water or other acceptable dust palliatives to maintain two inches of visibly-moist soil in the project area and to ensure that dust does not leave the property.
- Mitigation Measure AQ-3: All mobile diesel equipment used for construction and/or maintenance must be compliant with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air toxic Control Measures for CI engines. Additionally, due to nearby receptors (residences)

the installation shall require the review of generator emissions, even if it is below 50 Horse Power. The applicant shall contact the Lake County Air Quality Management District for details.

- Mitigation Measure AQ-4: The applicant shall chip vegetation and spread the material for erosion control as an alternative to vegetation burning. Due to close proximity to residential areas, chipping and/or mastication is recommended for the majority of the brush removal.
- Mitigation Measure AQ-5: All vehicles shall be restricted to a five (5) MPH Speed Limit on the existing access easement located off of State Highway 20.

### **Biological Resources**

A review of the California Natural Diversity Database (CNDDB) shows that the project site (APN: 010-009-42) may contain sensitive species in the vicinity of the existing fifty (50) foot wide utility easement, beginning from State Highway 20. This is according to a "Declaration Creating Road and Utility Easement" (Doc. 006964443) dated January, 23, 1979 from the Lake County Records/Assessor Office located on Parcel Numbers (010-009-39 & 010-009-40).

In 2017, EarthTouch Inc., completed an archaeological survey related to the construction and operation of a proposed wireless telecommunication facility. The survey was performed to comply with the National Environmental Policy Act of 1969 (NEPA). The report included an evaluation of the potential impacts the proposed construction and/or operation within the 10,000 square foot leased area. The report also included detailed evaluations of the potential impacts of the proposed facility on Historical and Cultural Resources and involved consultation with the U.S Fish and Wildlife Service, California Office of Historic Preservation and ancestrally-related Tribes with geographical interest.

An onsite Biological Assessment for the species known as Colusa Layia (*Layia Septentrionalis*) and the Foothill Yellow-Legged Frog (*Rana Boylii*) was conducted on April 20, 2018 by Jacobzoon Associates, Inc. in the areas impacted by the proposed re-alignment of Long Branch Drive and at the existing crossing site of Middle Creek.

- *Foothill yellow-legged frogs are a Candidate Species for State Threatened listing that are found in or near rocky streams with riffles and sunny banks in a variety of habitats from sea level to approximately 6300 feet elevation. Yellow-legged frogs require shorelines with dense, overhanging vegetation such as willow trees.*
- *Colusa layia (Layia septentrionalis) is an annual herb that blooms during April through May. It grows in sandy, serpentinite chaparral, cismontane woodland, and valley and foothill grassland. It has a California Native Plant Species (CNPS) Rare Plant Rank of IB, which is rare or endangered in California and elsewhere and no state or federal listing.*

According to a letter from Earth-Touch dated August 9, 2018 and the Biological Resource Evaluation that was completed in 2016/2017, the proposed wireless facility is not located within a critical habitat.

### **Proposed Crossing of Middle Creek:**

Middle Creek was surveyed for suitable habitat and the presence/absence of Foothill Yellow-Legged Frog, approximately 300 feet upstream and downstream from the proposed crossing. According to the Biological Assessment and the CNDDB, the Foothill Yellow-Legged Frog are located approximately 1,000 feet south in the North Fork Cache Creek and in Grizzly Creek. At the time of the survey, it was noted that the flow in Middle Creek was low (less than 2 inches) to

no flow in most areas. There were no pool formations and was mostly shallow riffles. The stream channels are wide, with fine sand, gravel and cobble size rocks. The streambanks are fairly open and sunny with very few trees providing shade. There were no willows along the streambanks. Additionally, there were no Foothill Yellow-Legged Frog egg masses observed during the survey. According to the Biological Assessment, Middle Creek may not a suitable habitat for the Foothill Yellow-Legged Frog.

Additionally, according to a letter dated August 10, 2018 and an email dated November 20, 2018 from the California Department of Fish and Wildlife, North Central Region, the applicant has applied for a Notification of a Lake or Streambed Alteration Notification on August 9, 2018 for the Middle Creek Crossing

#### Proposed Re-alignment of Long Branch Drive:

A Botanical Survey along the proposed re-alignment of Long Branch Drive was conducted on April 20, 2018. The survey specifically targeted the species *Colusa layia* during its blooming period. The proposed road alignment is located within Valley and Foothill Grasslands and Oak Woodlands. The soil in the project area is not sandy nor serpentinite. According to the Botanical Survey, neither *Colusa layia* nor its habitat was observed.

#### Oak Removal

The proposed project proposed to remove two (2) live Oak trees (*Quercus Agrifolia*) over five (5) feet DBH within Oak Woodland and valley and Foothill Grasslands to re-align approximately 685 feet of Long Branch Drive

**Figure 1 - Biological Map with Proposed Middle Creek Crossing**



Therefore, the implementation of the mitigation measures below would reduce any potential Biological Resources impacts to less than significant:

- Mitigations Measures BIO - 1: Prior to construction and/or any ground disturbance, the applicant shall have a qualified Biologist conduct a training session for all construction crew personnel. The training shall include a discussion of the sensitive biological resources within the project site and the potential presence of special status species, which shall include a discussion of special status species habitats, protections measures to ensure species are not impacted by project activities, project boundaries, penalties for noncompliance and all conditions of approval. All employees shall be trained prior to being granted project site access.
- Mitigations Measures BIO - 2: Prior to the construction and/or any ground disturbance, a pre-survey shall be conducted by a qualified biologist for the proposed creek crossing site for the Foothill Yellow-Legged Frog. Said survey shall include the following:
  - Survey shall be conducted within seven (7) days prior to initiation of any work.
  - Survey shall be restricted to the stream channels, including upland areas to detect migrating frogs.
    - If any Foothill Yellow-Legged Frog are found within the survey area and/or the construction disturbance zones, the applicant shall halt all construction activities and contact the CDFW immediately and site-specific mitigations measure shall be developed to avoid take, including minimizing disturbance to the Foothill Yellow-Legged Frog.
    - If no frogs are detected during the pre-construction and/or ground disturbance areas, construction related activities may proceed without further requirements.
  - The designated Biologist shall remain onsite daily while construction and/or ground disturbance activities are taking place to minimize any potential impacts to the Foothill Yellow-Legged Frog.
- Mitigations Measures BIO-3: Prior to the construction and/or any ground disturbance, the applicant shall submit the Pre-Construction Survey Report and Daily On-site Monitoring Reports to the CDFW within thirty (30) days of reviewing final report. Additionally, a copy shall be submitted to the Community Development Department within 30 days of obtain such report.
- Mitigations Measures BIO-4: Any oak tree larger than five (5) inches in diameter at breast height (DBH) that is removed as part of the project shall be replanted/replaced at a ratio of three (3) to one (1) for each oak tree removed. Any replanted/replaced oak tree shall be monitored until permanently established in accordance.
  - An Oak Mitigation Plan shall be submitted to the Community Development Department for review and approval prior to tower construction. The plan shall identify trees to be removed including size of tree, a replanting schedule, Plant Protection Plan, Irrigation Plan and take into account the current drought conditions and optimal time for planting.
  - Trees shall be monitored for a minimum of three (3) years and maintained an 80% survival rate. If the survival rate drops below 80%, applicant shall replace and/or replant additional trees. If necessary, changes shall be made to the Oak Mitigation Plan.

### **Cultural & Tribal Resources**

An Archeology Study for the Cache Creek Project, - ComSites West Site NO: CA – 014, located at 20662 State Highway 20, Clearlake Oaks, CA prepared by Historic Resource Associates of El Dorado Hills, CA (April 2017) and revised in February 2018.

A record search was conducted on August 26, 2016 at the Northwest Information Center; Sonoma State University in Rohnert Park, CA. It was determined one Cultural Resource Study had been conducted within a half mile of the project area by Wirth Environmental Services (1985 #S-08729) which may have encompassed a portion of the project area, but it was a linear, above-ground reconnaissance. There were two (2) pre-historic archaeological sites recorded within approximately one-half mile of the project area. There were no historic architectural properties identified within one-half mile of the project location in federal and state inventories.

A field investigation was conducted within the project area, walking one- meter to five-meter transects. The project area occupies a gently sloping ridgeline about one mile north of State Route 20. Access to the site is via a gravel/dirt road. The project area has been used for livestock grazing for over 100 years, and signs of past wildfires were evident in the project vicinity.

During the field survey of the project location, no prehistoric or historic archaeological sites, features, or artifacts were discovered in the direct project area, nor were any historic buildings, structures, or objects identified. Thus, no historic properties will be affected, directly or indirectly, by the proposed project. Based upon the soil, stratigraphy, upland topography, past disturbances and the result of the record search, the probability of encountering buried archaeological deposits is relatively low.

In keeping with CEQA Guidelines, if archaeological resources are uncovered during construction, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds [§15064.5(f)].

Therefore, the implementation of the mitigation measures below would reduce any potential Cultural & Tribal Resources impacts to less than significant

- Mitigation measure CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), and the culturally-affiliated Tribe shall be notified, and a qualified archaeologist retained to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, they shall be treated in accordance with Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.
- Mitigation measure CUL-2: All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the culturally-affiliated Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.
- Mitigation measure CUL-3: In the event that human remains are uncovered during site disturbance, the applicant's contractors shall (1) notify the affected Tribe; (2) contact an archaeologist to supervise the removal; (3) contact the Lake County Sheriff's Office, and (4) contact the Lake County Planning Department. Any remains found shall be re-interred by the affected Tribe.

### **Geology & Soils**

If greater than fifty (50) cubic yards of soils are moved, a grading permit shall be required as part of this project. The project design shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce discharge of all construction or post-construction pollutants into the County storm drainage system. BMPs typically include

scheduling of activities, erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapters 29 and 30 of the Lake County Code.

Therefore, the implementation of the mitigation measures below would reduce any potential Geological Resource impacts to less than significant.

- Mitigation Measure: GEO-1: Prior to the issuance of any permits, the applicant shall submit Erosion and Sediment Control Plans to the Community Development Department for review and approval. Said plans shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce discharge of all construction or post construction pollutants into the County storm drainage system. Typical BMPs include scheduling of activities, erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapters 29 and 30 of the Lake County Code and maintained for life of the project.

### **Hydrology and Water Quality:**

The project site is relatively flat to fairly steep and not within a special flood hazard area, except the existing 50 foot wide utility easement, which crosses Middle Creek as indicated in Site Plan A1.1, dated November 20, 2018. Vegetation removal and site grading and/or development activities have the potential to result in erosion and sediment loss if the site is not properly managed.

- If permit(s) are not required, the applicant shall obtain written verification from the California Valley Regional Water Quality Control Board and submit the verification to the Community Development Department.

Prior to the issuance of any permits, the applicant shall obtain and maintain all necessary permits from the California Department of Fish and Wildlife. Once the applicant has obtained the necessary permits, the applicant shall submit a copy of said permits to the Community Development within 30 days.

- If permit(s) are not required, the applicant shall obtain written verification from the California Department of Fish and Wildlife and submit the verification to the Community Development Department.

Therefore, the implementation of the Mitigation Measures GEO-1; and BIO-1 through BIO-4 would reduce any potential Biological Resources impacts to less than significant.

### **Noise**

Short-term increases in ambient noise levels to uncomfortable levels could be expected during project development, grading, and routine maintenance. Therefore, the implementation of the mitigation measures below would reduce any potential Noise impacts to less than significant.

- Mitigation Measure NOI-1: All construction activities including engine warm-up shall be limited Monday through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.
- Mitigation Measure NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 10:00PM and 45 dBA between the hours of 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.

This project is consistent with the Lake County General Plan, Shoreline Area Plan and the Lake County Zoning Ordinance as the proposed use is permitted in the "APZ" Agricultural Preserve Zone and "RL" Rural Lands Zoning District upon issuance of a Major Use Permit pursuant to Article 27, Section 27.11, Table B(ar).

As conditioned and mitigated, the proposed use would not result in any significant adverse environmental impacts. (Refer to Attachment 9 for details)

## **VI. FINDINGS FOR APPROVAL**

### ***Major Use Permit, Article 51, Section 51.4a***

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

**Response:** *The proposed use will not be detrimental to the health, safety, morals, comfort and general welfare of the person residing and/or working within the vicinity as all the potential environmental impacts have been reduced to less than significant levels with the incorporated mitigation measures and conditions of approval. Additionally, a communication tower is a permitted use subject to issuance of a Major Use Permit and pursuant to Article 27, Section 27.11, Table B(ar) of the Lake County Zoning. Prior to construction, the applicant shall submit and obtain a Building Permit from the Community Development Department to construct the proposed communication tower. Upon Building Permit submittal, the Planning Department would perform a Zoning Clearance (ZC) to ensure the proposed use has met all approved conditions of approval. The proposed communication tower shall meet all Federal, State and local agency requirements.*

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

**Response:** *The project site is approximately 632 acres in size (all parcels combined) with slopes that range from 15% to greater than 30%. The site is located in an area of the county where the majority parcels are undeveloped, except for single family dwellings and accessory structures.*

3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.

**Response:** *The project parcels are accessible from an existing fifty (50) foot wide utility easement beginning from State Highway 20 according to a "Declaration Creating Road and Utility Easements (Doc. 006964443) dated January, 23, 1979 from the Lake County Records/Assessor Office. State Highway 20, is maintained by the California Department of Transportation (Caltrans). No pedestrian facilities are proposed with this use permit, nor do any appear to be needed.*

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

**Response:** *The project site is served by an existing onsite waste disposal system (septic) and onsite well(s) and has adequate emergency service protection through CalFire, the Northshore*

Fire Protection District, the Lake County Sheriff's Office and the California Highway Patrol (CHP).

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.

**Response:** *The approval of the Major Use Permit will ensure consistency with the Lake County General Plan, Shoreline Communities Area Plan and the Lake County Zoning Ordinance as a Telecommunication Facility is permitted in the "APZ" - Agricultural Preserve Zone and "RL" Rural Lands Zoning Districts upon issuance of a Major Use Permit pursuant to Article 27, Section 27.11, Table B(ar) of the Lake County Zoning.*

6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and.

**Response:** *There are no known violations at this location.*

### **Wireless Communication Tower Findings of Approval, Article 71, Section 71.13**

1. That the development of the proposed wireless communications facility will not significantly affect any public view shed, scenic corridor or any identified environmentally sensitive area or resource as defined in the Lake County General Plan or Area Plans.

**Response:** *The applicant submitted a Visual Simulations for the proposed 190 foot tall lattice wireless telecommunication tower from eight (8) locations representing views from public vantage points. The following locations were analyzed. (Refer to Attachment 2 for details):*

- *View One: Looking southeast from New Long Valley Road, just north of Highway 20.*
- *View Two: Looking southeast from Hwy 20, a quarter mile south of New Long Valley Road.*
- *View Three: Looking southeast from Hwy 20*
- *View Four: Looking east from Hwy 20 at the south end of the private pond/lake adjacent to Highway 20.*
- *View Five: Looking northeast from Hwy 20 at the gate to the gravel pit.*
- *View Six: Looking northeast from Hwy 20.*
- *View Seven: Looking north from Hwy 20.*
- *View Eight: Looking northwest from Hwy 20 at the access road.*

*As shown in the simulations due to the topography and existing vegetation of the surrounding area, including the viewing distance, the public views of the proposed tower would be partially screened. Since the area to be developed within the project parcel lies approximately one (1) mile to the north of State Highway 20 the proposed antenna may be visible to motorists and adjacent residents. Due to the rate at which motorists travel along State Highway 20, viewers would only experience brief views of the antenna for short periods of time, including from vantage points where it would be most visible. The antenna would be designed and sited in a manner that would not obstruct views of the natural features and scenic resources in the area. The proposed tower would be designed similar to the existing overhead power line with lattice towers and ground equipment. Therefore, the proposed communication tower would not substantially degrade the visual quality of the area or degrade views of a scenic vista.*



2. That the site is adequate for the development of the proposed wireless communications facility and that the applicant has demonstrated that it is the least intrusive for the provision of services as required by the FCC.

**Response:** *The project site is approximately 632 acres in size (all parcels combined) with slopes ranging from less than 10% to greater than 30%. The tower would be located on a portion of the site that has slopes less than 10%.*

*APN 42, the project site, is developed with a single family residence and accessory structure located about 3,000 feet from the tower site. The residence is served by an onsite well(s) and an onsite waste management system (septic). Even though the project site(s) has existing development, the site is adequately sized for the development of the proposed wireless communications facility.*

3. That the proposed wireless communication facility complies with all of the applicable requirements of Article 71 of the Lake County Zoning Ordinance.

**Response:** *The proposed wireless communication facility complies with all of the applicable requirements of Article 71 of the Lake County Zoning Ordinance upon issuance of a Major Use Permit, pursuant to Article 27, Section 27.11, Table B(ar) of the Lake County Zoning Ordinance. Prior to construction, the applicant shall obtain a Building Permit from the Community Development Department to construct the proposed communication tower. The proposed communication tower shall meet all Federal, State and local agency requirements. Upon Building Permit submittal, the Planning Department will perform a Zoning Clearance (ZC) to ensure the proposed use has met all approved conditions of approval.*

4. That the subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this Title and that all zoning violation abatement costs, if any have been paid

**Response:** *A communication tower is a permitted use in the "APZ" Agricultural Preserve Zone and "RL" Rural Lands Zoning District upon issuance of a Major Use Permit pursuant to Article 27, Section 27.11, Table B(ar) of the Lake County Zoning. Prior to construction, the applicant shall submit and obtain a Building Permit from the Community Development Department to construct the proposed communication tower. Upon Building Permit submittal, the Planning Department would perform a Zoning Clearance (ZC) to ensure the proposed use has met all approved conditions of approval. The proposed communication tower shall meet all Federal, State and local agency requirements.*

## **VII. RECOMMENDATION**

Staff recommends that the Planning Commission approve the project with the following findings:

### **A. Adopt a Mitigated Negative Declaration based on Initial Study, IS 22-21 for Major Use Permit, UP 22-20 with the following findings:**

1. Potential environmental impacts related to Aesthetics have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
2. Potential environmental impacts related to Air Quality have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.

3. Potential environmental impacts related to Biological Resources have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
4. Potential environmental impacts related to Cultural & Tribal Resources have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
5. Potential environmental impacts related to Geology & Soils have mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
6. Potential environmental impacts related to Hazards & Hazardous Materials have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
7. Potential environmental impacts related to Hydrology & Water Quality have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
8. Potential environmental impacts related to Noise have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
9. Potential environmental impacts related to Mitigation Monitoring and Expiration have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
10. This project is consistent with land uses in the vicinity.
11. This project is consistent with the Lake County General Plan, Shoreline Community Area Plan and Zoning Ordinance.
12. As mitigated, this project will not result in any significant adverse environmental impacts.

**B. Conditionally Approve Major Use Permit, UP 22-20 with the following findings:**

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.
3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.
4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.

6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and.

**C. Conditionally approve Use Permit 22-20 with the following findings:**

1. That the development of the proposed wireless communications facility will not significantly affect any public view shed, scenic corridor or any identified environmentally sensitive area or resource as defined in the Lake County General Plan or Area Plans.
2. That the site is adequate for the development of the proposed wireless communications facility and that the applicant has demonstrated that it is the least intrusive for the provision of services as required by the FCC.
3. That the proposed wireless communication facility complies with all of the applicable requirements of Article 71 of the Lake County Zoning Ordinance.
4. That the subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this Title and that all zoning violation abatement costs, if any have been paid.

**Sample Motions:**

**Mitigated Negative Declaration**

I move that the Planning Commission find on the basis of the **Initial Study No. 22-21** prepared by the Planning Division and the mitigation measures which have been added to the project, that the **Use Permit, UP 22-20** as applied for by **Comsite West** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be issued with the findings listed in the staff report dated **August 11, 2022**.

**Major Use Permit**

I move that the Planning Commission find that the **Use Permit, UP 22-20** applied by **Comsite West** on property located at on property located at **20114, 20226 and 20662 E. State Highway 20, Clearlake Oaks, CA 95423 further described as APN: 010-009-42 (Project Site) and 010-009-39 & 010-009-40 (Access Only)** does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and grant the Major Use Permit based on the findings and conditions of approval listed in the Staff Report dated **August 11, 2022**.

**Wireless Communication Facility Approval**

I move that the Planning Commission find that the Wireless Communication facility applied for by **Comsite West** on property located at **20114, 20226 and 20662 E. State Highway 20, Clearlake Oaks, CA 95423 further described as APN: 010-009-42 (Project Site) and 010-009-39 & 010-009-40 (Access Only)** does meet the requirements of Section 71.13 of the Lake County Zoning Ordinance and that the Planning Commission has reviewed and considered the Mitigated Negative Declaration which was adopted for this project and the Wireless Communication Facility be granted based on the findings and conditions of approval listed in the staff report dated **August 11, 2022**.

***NOTE:** The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must*

*be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination*