

COUNTY OF LAKE
MAJOR USE PERMIT, UP 18-01

HORIZON TOWER – CLEAR LAKE RIVIERA
85 FOOT TALL UNMANNED MONO-BROAD LEAF TREE
TELECOMMUNICATIONS TOWER
CONDITIONS OF APPROVAL

Expires if not used by: April 23, 2021

Pursuant to the approval of the Board of Supervisors on April 23, 2019, there is hereby granted to Horizon Tower L.P. II, 117 Town & Country Drive, Suite A, Danville, CA 94526, a Major Use Permit, UP 18-01 with the following conditions of approval to allow an 85 foot tall unmanned mono-broad leaf tree telecommunication tower, for collocation of up to four telecommunication service providers, each with up to four (4) – 36 panel antennas, each approximately 8' x 18"; and up to eight (8) microwave dish antennas, approximately 36" diameter; including ancillary facilities for the tower within carriers' leased area, approximately 2,500 square feet (50'x50') in size and fenced with a six foot (6') chain link fence and accessible with an existing twelve foot (12') wide access easement improved to a minimum of twenty foot (20') wide access easement with a minimum of ten (10') foot wide all-weather surface, on property located at 9475 Mojave Trail, Kelseyville, CA; and further described as APN 009-004-21, subject to the following terms and conditions.

A. GENERAL CONDITIONS:

1. The use hereby permitted shall substantially conform to the project as described in the Community Development Department Major Use Permit Application, **UP 18-01 dated January 30, 2018**, and **Site Plan dated May 9, 2018**, prepared by **Diamond Engineering Services**. Minor alterations which do not result in increased environmental impacts may be approved in writing by the Community Development Director.
2. This permit does not abridge or supercede the regulatory powers or permit requirements of any federal, state, local agency, special district or department which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain permits as may be required from each agency.
3. The permit holder is responsible for insuring that all project workers are informed of, understand, and agree to abide by the approved plans and project conditions.
4. This permit may be revoked if the use for which the permit was granted is conducted as to be detrimental to the public health, safety, or welfare or as to be a nuisance. This permit shall be valid until it expires or is revoked pursuant to the terms of this permit and/or Chapter 21 of the Lake County Code.
5. All construction shall be reviewed and approved by a *California-Licensed Professional Civil Engineer or Architect*, and be constructed to those specifications, subject to review and approval of the Community Development Department.
6. If a Communications Tower remains unused for a period of twelve (12) consecutive months, the owner or operator shall dismantle and remove the communications tower within six (6) months of the expiration of such twelve (12) month period.
7. **Prior to building permit submittal**, the applicant shall obtain two (2) copies of a site plan, which have been reviewed and approved by Lake County Environmental Health.
8. **Prior to building permit final**, the permit holder shall comply with all of the regulations and/or requirements of the Kelseyville Fire Protection District and CAL FIRE.

Exhibit 2

9. **Prior to building permit final**, the permit holder shall adhere to all requirements of Chapter 13 of the Lake County Code, including but not limited to adherence with the Hazardous Vegetation requirements.

AESTHETICS

1. If the applicant wishes to install lighting at a future date, the applicant shall submit a Lighting Plan the Community Development Department for review and approval prior to issuance of any building permits.

2. Any exterior lighting, except as required for FAA regulations for airport safety, shall be manually operated and used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.

3. All lighting shall be directed downwards onto the project site and not onto adjacent roads or properties. Lighting equipment shall be consistent with that which is recommended on the website: www.darksky.org and provisions of section 21.41.8 of the Zoning Ordinance. (*Mitigation Measure AES-1*)
4. If the applicant decides to install signage, the applicant shall submit a **Signage Plan** to the Community Development Department for review and approval prior to the issuance of any building permits.

5. Supporting facilities (i.e. vaults, equipment rooms, utilities and equipment enclosures) shall be constructed of non-flammable, no-reflective materials and shall not exceed a height of twenty (20) feet.

6. The applicant shall adhere to all requirements and regulations in the Lake County General Plan, Lakeport Area Plan and the Lake County Zoning Ordinance.

Article 71-Regulations for the placement of Communication Towers & Antennae

Section 71.3: General Regulations

7. Wireless communication facilities shall comply with all FCC rules, regulations, and standards.

8. The wireless communication facility shall comply with all applicable criteria from the Lake County Airport Land Use Compatibility Plan (ALUP) and the Federal Aviation Administration (FAA).

9. All antennas and antenna towers shall be inspected, following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity.
- The applicant shall submit an Engineers Report of the engineer's findings (structural integrity) to the Community Development Department within 30 days of the report being completed. All costs of inspection(s) and reporting shall be the responsibility of the applicant.

Facilities

10. **Prior to building permit final**, anti-climb devices or fencing and safety signage shall be installed to prevent unauthorized access to equipment.

11. Existing trees and other vegetation which provide screening for the proposed facility and associated access roads shall be protected from damage during construction.
- If additional landscaping or visual screening is needed, the applicant shall submit a Landscape/Visual Screening and Irrigation Plan to the Community Development Department for review and approval.
 - Said plan shall introduced native vegetation, drought tolerant species compatible with the predominant natural setting of the project area, and shall be maintained throughout the life of the project.

12. Any tree(s) that provides visual screening of the communication facility shall not be removed. 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.

Section 71.8(b): Design Review and Frequency Emission Compliance

13. All guy wires associated with guyed communications towers shall be clearly marked so as to be visible at all times and shall be located within a fenced enclosure.
14. No signs or lights shall be mounted on a communications tower, except as may be required by the Federal Communications Commission, Federal Aviation Administration or other governmental agency that has jurisdiction.
15. The applicant shall submit written documentation to the Community Development Department within sixty (60) days of the new calendar year. Said documentation shall be prepared by a Radio Frequency Engineers or other qualified professionals and contain the following:
 - Verify compliance with FCC regulations if any change in facility's conditions and justify documentation.
 - Written documentation verifying continuing compliance with all FCC regulations.

Section 71.10: Regulations Governing Telecommunications Antenna & Equipment Buildings

16. Omni directional or whip communications antennas shall not exceed twenty (20) feet in height and seven (7) inches in diameter.
17. Directional or panel communications antennas shall not exceed eight (8) feet in height and eighteen inches (18") feet in width, unless the cumulative visual impact of an array can be reduced by using a different size.

Section 71.10: Reporting Requirement

18. If any changes and/or amendments occur, the applicant(s) shall submit a detailed description to the Community Development Department within sixty (60) days of any changes and/or amendments pursuant to Article 71 of the Lake County Zoning Ordinance.

Section 71.12: Site Restoration upon Termination & Abandonment of Facility

19. The site shall be restored to its natural state within six (6) months of termination of use or abandonment of the site.
20. Applicant shall enter into a Site Restoration Agreement subject to the approval of the Director Community Development and County Counsel upon termination and abandonment of the facility.
21. If a Communications Tower remains unused for a period of 12 consecutive months, the owner or operator shall dismantle and remove the communications tower within six (6) months of the expiration of such 12 month period.

C. AIR QUALITY

1. Vegetation that is removed for development must be properly disposed. 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-1)
2. Vehicular and fugitive dust shall be minimized by use of water or 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-2)
3. All access roads, driveways and parking areas shall be paved, chip sealed, gravel or an equivalent all weather surface to reduce air particulates. Said material shall be maintained for the life of the project. (Mitigation Measure AQ-3)

4. The speed limit shall be posted as 5 mph during construction to reduce dust impacts during construction. *(Mitigation Measure AQ-4)*
 5. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 6. All Mobile diesel equipment used for construction and/or maintenance must be compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air toxic Control Measures for CI engines. *(Mitigation Measure AQ-5)*
 7. The applicant shall adhere to all Federal NESAP of NSPS for all Stationary Spark-Ignition Engines which shall be operated and maintenance according to the manufacture recommendations. The applicant and/or operator shall maintain records of use, maintenance, and other operational issues, and provide these records to the Community Development Department and/or the Lake County Air Quality Management District upon request. The applicant shall coordinate with the Lake County Air Quality Management District and obtain all necessary permits **prior to the issuance of permits and submit written verification to the Community Development Department.** *(Mitigation Measure AQ-6)*
 8. Project development and vegetation disposal shall not create nuisance odors and/or dust. No burning is allowed as part of the commercial operation and development, including the burning of construction and/or demolition debris.
 9. Prior to issuance of any building permit, a complete list of all equipment utilized at the site with the potential to emit air containments shall be submitted to the Lake County Air Quality Management District (LCAQMD), including diesel powered generators, pumps, off-road equipment, etc. All diesel powered equipment shall meet the requirements of the state ATCM's for CI engines (stationary & portable). *An Authority to Construct Permit* may be required for any diesel powered equipment's, or other equipment with the potential for air emissions. The permit holder shall contact the LCAQMD at 707-263-7000 for details.
- D. BIOLOGICAL RESOURCES**
1. The California Department of Fish & Wildlife filing fee shall be submitted as required by California Environmental Quality Act (CEQA) statutes, Section 21089(b) and Fish and Game Code Section 711.4. The fee should be submitted to the Community Development Department within five days of approval of the mitigated negative declaration.
 2. For any ground disturbing activities during the breeding season of migratory avian or raptor species (February through mid-September), **applicant shall have a qualified biologist conduct surveys for active nests no more than ten (10) days prior to start of activities.** Pre-construction biological surveys shall occur prior to the proposed project implementation, and during the appropriate survey periods for nesting activities for individual avian species. Surveys will follow required CDFW and USFWS protocols, where applicable. A qualified biologist shall survey suitable habitat for the presence of these species. If a migratory avian or raptor species is observed and suspected to be nesting, a buffer area will be established to avoid impacts to the active nest site. Identified nests should be continuously surveyed for the first 24 hours prior to any construction-related activities to establish a behavioral baseline. If no nesting avian species are found, project activities may proceed and no further Standard Construction Condition measures will be required. If active nesting sites are found, the following exclusion buffers will be established, and no project activities will occur within these buffer zones until young birds have fledged and are no longer reliant upon the nest or parental care for survival. *(Mitigation Measure BIO-1)*
 - A minimum no disturbance of 250 feet around active nest of non-listed bird species and a 250 foot no disturbance buffer around migratory birds.
 - A minimum no disturbance of 500 feet around activeness of non-listed raptor

- species.
- A 0.5 (1/2) mile no disturbance buffer from listed species and fully protected species until breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.
 - Once work commences, all nest(s) shall be continuously monitored to detect any behavioral changes as a result of project activities. If behavioral changes occur, the work causing these changes shall cease and the applicant shall contact the appropriate agencies (i.e. CA Dept. of Fish & Wildlife, US Fish and Wildlife Services) shall be consulted for additional avoidance and minimization measures.
 - A variance for these "no disturbance buffers" may be implemented when there is compelling biological and/or ecological reasons. Variance from these buffers is advised to be supported by a qualified Wildlife biologist and the CA Department of Fish & Wildlife and US Fish & Wildlife Services shall be notified in advance of implementation of a no disturbance buffer.
3. **Prior to issuance of any permits**, the applicant shall submit a Best Management Practices (BMP) Plan to the Community Development Department for review and approval. Said plan shall use best management practice to avoid debris contamination into drainages and other sensitive wildlife habitats. (Mitigation Measure BIO-2)
4. The applicant shall ensure all personnel working in the field, have completed an Environmental Awareness Training. Said training shall consist of a brief presentation in which a qualified biologist knowledgeable of the endangered species biology and legislative protection explain the endangered species concerns, including special plants status and sensitive wildlife species to ensure the protections of these species and their habitats. (Mitigation Measure BIO-3)
5. A qualified botanist will conduct pre-construction field surveys to identify any populations of special-status plant species within the proposed project site that will be disturbed during project activities. **These surveys shall be conducted prior to the issuance of any permits** and/or initiation of any construction activities and coincide with the appropriate flowering period of the special-status plant species with the potential to occur in the project area. If any special-status plant species populations are identified within and/or adjacent to the proposed disturbance area, the project applicant shall implement the following:
- If any population(s) of special-status plant species is identified directly adjacent to the proposed project site, a qualified biologist retained by project proponent will clearly delineate the location of the plant population, and install protective fencing between the disturbance zone and the plant population to ensure that the plant population is adequately protected. (Mitigation Measure BIO-4)
6. Due to the potential for special species to occur, and/or move throughout the project area, the applicant shall have an on-site biological monitor check the ground beneath all equipment and stored materials each morning **prior to the commencement of work activities during ground disturbance and/or removal of existing vegetation**. (Mitigation Measure BIO-5).
7. All piping and/or tubing greater than four (4) inches shall be sealed by the relevant contractor with tape at both ends to prevent animals from entering the piping when construction does occur. (Mitigation Measure BIO-6)
8. All trenching and/or similar excavations shall be backfilled the same day they are opened or have an exit ramp built into the excavation area(s) to allow species to escape safely. (Mitigation Measure BIO-7)

9. Applicant shall have project site boundaries clearly delineated by stakes and/o flagging to minimize inadvertent degradation and/or loss of adjacent habitat during project operations. Staff and/or contractors shall post signs and/or place fences around the project site to restrict access of vehicles and equipment unrelated to drilling operations. (Mitigation Measure BIO-8)
10. A Bat habitat survey shall be conducted by a qualified Biologist **prior to the issuance of any permits and/or commencement of constructing** If shrubs/tress removal be necessary, it shall only occur during seasonal period of bat activity, between March 1, (or when evening temperatures are above 45 degrees Fahrenheit and rainfall is less than ½ inch in a 24 hour period); and April 15, prior to parturition of pups. The next acceptable period of shrub/tree removal with suitable roosting habitat shall occur after pups become self-sufficiently Volant (September 1 through October 15), or prior to evenings temperatures dropping below 45 degrees Fahrenheit and onset of rainfall greater than ½ inch in 24 hours. (Mitigation Measure BIO-9)
11. A qualified botanist shall conduct a pre-construction field survey to identify any populations of special-status plant species within the proposed project site that will be disturbed during project activities. **These surveys shall be conducted prior to the initiation of any construction activities and coincide with the appropriate flowering period of special-status plants species with the potential to occur in the project area.**
 - If any special-status plant species populations are identified within or adjacent to the proposed disturbance area, the applicant shall have a qualified biologist clearly delineate the location of the plant population, install protective fencing between the disturbance zone and the plant population to ensure the protection of the plant species. (Mitigation Measure BIO-10)
12. When a special plant species occurs within the proposed disturbance zone, the applicant shall consult with CA Dept. of Fish & Wildlife and the US Fish & Wildlife Services to determine the appropriate measure to be taken in order to avoid and/or mitigate impacts to the species/populations which shall include adjusting the boundaries of the disturbance zone where feasible and the applicant shall implement one or more of the following: 1) Transplant potentially affected plants to areas not planned for disturbance. If plant is transplanted, applicant shall plant two (2) or more plants. Said transplants shall be managed and monitored by the applicant and shall survive for a minimum of five (5) years after planting; 2) Seeds and/or purchased plants shall be planted in an area adjacent to the disturbed zone; 3) Applicant may purchase credits at an approved mitigation bank at a ratio approved by the CA Dept. of Fish & Wildlife, US Fish & Wildlife Services and the applicant. (Mitigation Measure BIO-11)
13. If any oak tree larger than five (5) inches in diameter at breast height (DBH) that are 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. Said plan shall indicate size of tree and identify trees to be removed including a replanting schedule and take into account the current drought conditions and optimal time for replanting. (Mitigation Measure BIO-12)

E. CULTURAL RESOURCES

1. 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)]. Should any archaeological, paleontological, or cultural materials be discovered during development, all activity shall be halted in the vicinity of the find(s), 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. (*Mitigation Measure CUL-1*)

F. GEOLOGY & SOILS

1. 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 include scheduling of activities, erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapter 29 of the Lake County Code. All post constructions BMPs shall be maintained for life of the project.
2. **Prior to the issuance of any permits**, applicant shall submit an Erosion and Control Plans to the Community Development Department for review and approval. Said Plan shall also include an Operational and Maintained Plan for the post construction BMP's.
 - Typical BMPs can be found in the California Storm water Quality Association Storm water Best Management Practices Handbooks, including the Construction Handbook and the New Development and Redevelopment Handbooks. Handbooks are available for purchase or download at <http://www.cabmphandbooks.com>.

G. HAZARDS & HAZARDOUS MATERIALS

1. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state and federal regulations.
2. Storage of hazardous materials equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, the applicant shall submit a Hazardous Material Business Plan to the Department of Environmental Health via the California Electronic Reporting System (CERS) and it shall be renewed and/or update annually or if quantities increase. If the amount of hazardous materials is less than the above quantities, the applicant must complete and submit a Hazardous Materials and Waste Registration Form with the Department of Environmental Health. The applicant shall submit a copy of all necessary documents to the Community Development Department **prior to issuance of any permits**.
 - If the applicant increases the storage of hazardous materials, the applicant shall contact the Department of Environmental Health and update their Hazardous Material Business Plan within thirty (30) days of change and submit an approved Environmental Health copy to the Community Development Department.
3. The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak onto the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site authorized to accept such materials.
4. Hazardous waste (including industrial waste) must be handled according to all Hazardous Waste Control and Generator regulations. Waste shall not be disposed of on-site without review or permits from EHD, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.
5. The project shall comply with Section 41.7 of the Lake County Zoning Ordinance that specifies that all uses involving the use or storage of combustible, explosive, caustic or otherwise hazardous materials shall comply with all applicable local, state and federal safety standards and shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment.

H. HYDROLOGY & WATER QUALITY

1. In order to reduce impacts to water quality the permit holder shall protect all disturbed areas by applying BMPs, which may include the placement of straw, mulch, seeding, straw wattles, and silt fencing and planting of native vegetation on all disturbed areas to prevent erosion.
2. All slopes shall be monitored and maintained by the permit holder to assure the success of the erosion control measures and revegetation. All disturbed areas shall be re-vegetated with native species consistent with fire safe practices and protected from erosion and storm-water runoff utilizing BMPs appropriate to the site conditions. Vegetation shall be maintained until permanent establishment is achieved.
3. The permit holder shall use BMPs to prevent erosion and ensure that sediment and silt exceeding the natural back ground level does not enter any nearby streams and water courses. The natural background level is the level of erosion that currently occurs from the area in a natural, undisturbed state. BMPs may include the placement of straw, mulch, seeding, straw wattles, silt fencing and planting of native vegetation on all disturbed areas.

I. NOISE

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.
2. Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 10:00PM and 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11.12 at the property lines.

J. TRANSPORTATION AND TRAFFIC

1. **Prior to building permit final**, access shall be provided to the communications tower and communications equipment building by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length.
2. **Prior to building permit final**, the applicant shall provide a minimum of one (1) off street parking space within the fenced area.

K. MITIGATION MONITORING AND EXPIRATION:

1. The permit holder shall permit the County of Lake or representative(s) or designee(s) to make periodic and/or annual inspections at any reasonable time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
2. **Prior to issuance of any permits**, the applicant shall pay the *Annual Compliance Monitoring Fee* of \$760.00 to the Community Development Department until all conditions of approval are met.
3. **Prior to building permit final**, the applicant shall submit a summary response in writing establishing compliance with the approved conditions of approval, including dates of compliance and referencing documents and/or other evidence of compliance to the Community Development Department for review and approval, including scheduling an inspection with the Community Development Department to ensure all conditions of approval have been met.
4. This permit shall be valid for an indefinite period of time unless it expires or is revoked pursuant to the terms of this permit and/or Chapter 21 of the Lake County Code.
5. This permit shall be null and void if not used by **April 23, 2021**, or if the use is abandoned for a period of two (2) years.

Article 71, Section 71.14 Indemnification

6. The applicant shall enter into an Indemnification Agreement with the Community Development Department **within thirty days (30) of issuance of use permit**. Said agreement shall include the following language per the above section: *"hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained, by any person or property resulting from the issuance of the permit and the conduct of the activities authorized under said permit"*.

Michalyn DelValle
Community Development Director

Prepared by: MR

By: 
Danae Bowen, Office Assistant III

Acceptance

I have read and understand the foregoing Conditionals of Approval and agree to each and every term and condition thereof.

Date: 05/31/19


Signature of applicant or authorized agent

John Kapulica
Printed name of applicant or authorized agent