



Legislation Details (With Text)

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File created: 4/4/2019 **In control:** BOARD OF SUPERVISORS

On agenda: 4/23/2019 **Final action:**

Title: 9:30 A.M. - PUBLIC HEARING - Consideration of Appeal (AB 19-01) of Planning Commission's Approval of Major Use Permit (UP 18-01) and Adoption of Mitigated Negative Declaration, based on Initial Study (IS 18-06) for the Construction and Operation of an Unmanned 85 Foot Tall Broad Leaf Mono-tree Wireless Telecommunication Tower Able to Accommodate up to Four (4) Wireless Communication Carriers; Project Located at 9475 Mojave Trail, Kelseyville (APN 009-004-21); Project Applicant is Horizon Tower, LLP; Appellant is Aurelia Johnson

Sponsors: Community Development

Indexes:

Code sections:

Attachments: 1. Exhibit A - Vicinity Map, 2. Exhibit B - Applicants Appeal Packet, 3. Exhibit C - PC Staff Report, 4. Exhibit D - Documents received during Jan. 24, 2019 PC, 5. Exhibit E - Planning Commission Minutes January 24, 2019, 6. Exhibit F - Horizon Tower Response to Appeal, AB 19-01, 7. Exhibit G - Biological Resource Assessment, 8. Exhibit H - Conditions of Approval

Date	Ver.	Action By	Action	Result
4/23/2019	4	BOARD OF SUPERVISORS		
4/23/2019	4	BOARD OF SUPERVISORS	denied	Pass

MEMORANDUM

TO: Board of Supervisors

FROM: Michalyn DelValle, Community Development Director

Mark Roberts, Senior Planner

DATE: April 23, 2019

SUBJECT: Appeal to Board of Supervisors, AB 19-01 of Planning Commission's Approval of Major Use Permit, UP 18-01 and Initial Study, IS 18-06 (Horizon Telecommunication Tower) Supervisorial District 5

EXHIBITS:

A. Vicinity Map

B. Appellant Appeal Packet, AB 19-01

C. Planning Commission Staff Report with Attachments dated January 24, 2019

D. Documents received during January 24, 2019 Planning Commission meeting

E. Draft Planning Commission Minutes from January 24, 2019

F. Horizon Tower Response to Appeal AB 19-01

G. Biological Resource Assessment dated May 2018; prepared by Synthesis Planning.

H. Proposed Conditions of Approval

EXECUTIVE SUMMARY:

The appellant, Aurelia Johnson is appealing the decision made by the Planning Commission on January 24, 2019, to approve Use Permit, UP 18-01 which would allow the development of an 85 foot tall unmanned Broad Leaf Mono-Tree Wireless Telecommunication Tower located at 9475 Mojave Trail, Kelseyville.

Background and Previous Actions:

On January 24, 2019, the Planning Commission found the project, with the incorporated mitigation measures in Initial Study, IS 18-06 would not have a significant impact on the environment, and adopted a Mitigated Negative Declaration.

The Applicant, Horizon Tower L.P.II, proposes to install a 85 foot tall unmanned Broad Leaf Mono-Tree Wireless Telecommunication Tower an approximately 39.5 acre parcel adjacent to Clear Lake Riviera Subdivision, Units 10, 11, and 12. The tower would be constructed to enable colocation of up to four telecommunication service providers, eliminating the need for several towers in separate locations and expanding telecommunication capacities. The proposed telecommunication tower ancillary facilities include outdoor equipment structures which would be placed on one of four 12 ft. X 25 ft. (300 square foot) sections contained within a concrete pad totaling 2,500 square feet. The tower and ground based leased areas would be enclosed within a six foot (6') chain-link fence.

The electric and telephone utilities would be routed to the accessory equipment from nearby points of connection. Some grading is anticipated to clear dense brush for the site and a fire access hammer head turn around. The site is currently accessible by an existing eight foot (8') to twelve foot (12") wide private dirt/gravel access easement/road, which would be increased to the required minimum of twenty foot (20') easement with a minimum of ten feet (10') improved surface. Access to the project parcel is through Mojave Trail, a 105 foot County maintained road, continuing as a private driveway at the boundary of the project parcel.

According to the applicant a technician of each of the four possible providers would conduct a monthly site visit to ensure the facility is in working order and perform any necessary repairs/maintenance. A back-up generator is not proposed with this project, but may be requested by the individual service providers, as part of their building permit for equipment installation and maintenance. Once construction begins, it would take approximately ninety (90) days to complete all development.

Appeal Discussion:

A timely appeal was filed on January 31, 2019 with the Community Development Department. According to the appellant's statements, the reasons for the appeal include but are not limited to the following: *(Exhibit B)*

- a) *Prejudicial placement during public hearing for project, January 24, 2019.*
 - *County employees and Horizon/cell industry representative were seated at actual tables with use of projector and were directly in front of the Supervisors.*

- *The appellants' were required to sit in the general audience seating. Citation California Law and Civil procedure Code Section 1094.5 and possibly 1094.6.*

Response: Staff and the applicant presented on the item. The general public were given the opportunity to speak and voice their concerns during the public comment.

b) *Concern with cultural resource protection.*

- *Lack of survey information in Initial Study, IS 18-06*
- *Only information found with regards to cultural resources is attached letter from Youcha DeHe Wintun Nation out of Cache Creek, dated August 27, 2018 which declines any comment on the project. Pomo Indians are the aboriginal inhabitation in our territory. The letter as an exhibit is not a valid citation.*

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Response: A Request for Review for Sufficiency was sent on February 6, 2018, to the Northwest Information Center at Sonoma State University (NWIC), and to the following tribes:

- Big Valley Rancheria
- Elem Colony
- Koi Nation
- Middletown Rancheria
- Redwood Valley Rancheria
- Robinson Rancheria
- Scotts Valley Band of Pomo
- Upper Lake Habematolel

Responses were received from the following (Refer to Exhibit C - PC Packet, Attachment 6)

- Northwestern Information Center - *Per their comments dated February 14, 2018 their office has no record of any previous cultural resources studies for the proposed project area, therefore they have recommended a study prior to commencing of activities and/or the lead agency contact the local Native American tribes.*
 - *The Request for Review was sent on February 6, 2018 to various Federal, State and local agencies, including all surrounding Tribal Agencies for commenting/concerns.*
 - *As discussed in Initial Study, IS 18-06, a records search and site visit were conducted by Archaeological Resources Technology (ART), with a report dated January 8, 2018. According to ART, the field survey and survey with photographic reconnaissance conducted on December 28, 2017 determined that no cultural soils and/or materials were observed. Also, based on the finding and recommendation from ART, there are no known prehistorical and/or NR-eligible historic resources within or within 250 feet of the project area.*
- Koi Nation - *Per their comments dated February 6, 2018 they are not interested in the project.*
- Redwood Valley Rancheria - *Per their comments dated August 16, 2018 they defer comments and concerns to Big Valley and Scott valley Tribes. We did not received any comments from those two tribal agencies.*

- Yocha Dehe - *Per their comments dated August 27, 2018 the project area is not within aboriginal territories, therefore they decline to comment.*

Additionally, once the Initial Study is complete, the Community Development Department sent out a Notice of Intent (NOI) on August 15, 2018 for a 30 days commenting period which allows the general public and various governmental agencies to comment on the environmental documents. *(The Notice of Intent was sent to the State Clearing House, various Federal, State and local agencies including the local tribal organizations and the surrounding property owners with 725 feet of the project parcel).*

However, 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, with the following mitigation measure, the impacts would be less than significant.

- CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during vineyard 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.

c) *Lack of consideration to wildlife in the area.*

- *See report from Eclipse project, World Wide Web conference January 22-25, 2018. A report was given to planning commission at public hearing, on January 24th from Aurelia Johnson.*
- *A letter from the Department of the Interior from February 7, 2014, criticizes the FCC's radiation safety guidelines stating, "The electromagnetic radiation standards use by the FCC which continue to be based on thermal hearing, a criterion now nearly 30 years out of date and inapplicable today."*

Response: A Biological Assessment was prepared by Synthesis Planning; dated May of 2018. The purpose of the Biological Assessment is to provide technical information and to review the proposed study area and the potential impacts it may have on sensitive species. The report includes but is not limited to the following: *(Refer to Exhibit G for details)*

Wetland and Waters of the U.S and State

A Delineation of Wetlands and Watercourses was completed by "Synthesis Planning Wetland Ecologist" during March of 2018. According to "Synthesis Planning" there were no intermittent streams, ponds, and/or wetlands identified within the study area.

Vegetation Communities:

According to the Biological report, there are two (2) vegetation community types observed within the study area. 1) Chaparral and 2) Ruderal Vegetation.

Wildlife Habitats

Wildlife habitat classifications for this report is based on the CA Department of Fish and wildlife Habitat

Relationships Systems which places an emphasis on dominant vegetation, vegetation diversity and physiographic character is the habitat. As a plant and/or vegetation community is degraded by loss development and/or natural causes, it often results in a reduction of Wildlife Species diversity.

- Pallid Bat & Townsend Big eared Bats: According to the Biological Assessment, no individual bat were observed during the biological surveys and no documented sightings of these species have been recorded within the project area.
- Critical habitat: According to the Biological Assessment, no critical habitat was identified within the proposed project site or buffer area (USFWS 2018).
- Special Status natural Communities: According to the Biological Assessment, no special status natural communities were identified within the proposed project site or buffer area during the file investigation.

The proposed project has included twelve (12) mitigation measures that would reduce all potential impacts to less than significant. The mitigation measure are as follows: (*Refer to Exhibit H for details*)

- BIO-1: Any ground disturbing activities that 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 nesting surveys shall be conducted for nesting migratory avian and raptor species in the project site and buffer area. 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 Conditions 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.
 - *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 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 Dept. of Fish & Wildlife and US Fish & Wildlife Services shall be notified in advanced of implementation of a no disturbance buffer.*

- BIO-2: Prior to issuance of any permits, the applicant shall submit a *Best Management Plan (BMPs)* to the Community Development for review and approval. Said plan shall use best management practice to avoid debris cross contamination into drainages and other sensitive wildlife habitats.
- BIO-3: 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.
- BIO-4: 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.*
- BIO-5: Due to the potential for special species to occur, and/or move throughout the project area, the applicant shall have an *Onsite 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.
- BIO-6: 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 on occur.
- BIO-7: 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 safety.
- BIO-8: 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.
- BIO-9: A Bat habitat 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.

- **BIO-10:** 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.*
- **BIO-11:** 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.
- **BIO-12:** 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.*

The Telecommunication Act of 1996 allows local government limited authority, but it's quite 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)"].

- Pursuant to Section: 704 (iv); Facilities Siting; Radio Frequency Emission Standards of the Telecommunication Act of 1996: "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."

- d) *Concern over two (2) earthquake fault lines running through proposed project. Will discuss at BOS.*

Response: The Clear Lake Rivera, including the project area is within the Konocti Bay Fault Zone.

Residential and commercial developments, including infrastructure projects such as this one, are required to meet the design standards for Seismic Design Category D2 and all current California Building Code requirements. All building plans submitted for the tower would be reviewed to ensure compliance with such requirements.

Additionally, Conditions of Approval are in place, which include but is not limited to the following: *(Refer to Exhibit H for details)*

- Condition of Approval A5: 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.
- Condition of Approval B9: 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.*

- e) *Concern of decrease in R/E values.*

- *With a drop in real estate values, expected to affect many or all homes in our neighborhood, homeowners could decide to proceed with lawsuits based on the theory of legal, "taking". See also attached letter from Lake County Association of Realtors, dated December 7, 2018.*

Response: According to the California Environmental Quality Act (CEQA), the environmental review of a project is limited to the project's physical impact on the environment. Potential economic impacts, such as real estate value variation, are not analyzed.

- f) *Cell tower location*

- *When cell tower representative was asked, "Why did you pick this particular site for the tower?" The representative didn't answer the question as presented.*
- *See attached letter from Frank Howard stating that the owner actually approached the company himself.*

Response: Article 71.9(d) of the Lake County Zoning Ordinance states, "Any applicant proposing construction of a new communications tower shall provide written documentation that a good faith effort

has been made to obtain permission to mount the communications antennas on an existing building, structure or communications tower. A good faith effort shall require that all owners of potentially suitable structures within a one-quarter (1/4) mile radius of the proposed communications tower site be contacted and that one or more of the following reasons for not selecting such structure apply:"

The staff report included the applicant's project description, which contained a diagram of the four telecommunication towers within a five (5) mile radius of the project area. It also included propagation (coverage) maps of the Clear Lake Riviera region, both with and without the proposed coverage of the project as explanation for the selected project site. As described by the Applicant.

"The subject property and location were selected after a thorough evaluation of the area and for the following reasons: (1) there are no existing structures in the immediate area, which could support antennas at the required height. (2) Properties adjacent to the subject property were investigated; however a lease agreement could not be secured. (3) The location on the subject 40 acre property allows the subject facility to be sited away from adjacent residences. (4) The subject property has an existing access driveway with access to the required utilities. For these reasons the subject property is the best single site solution to serve the subject area while allowing carriers to provide critical wireless communication services to the residents, emergency response personnel, travelers and boaters."

- g) *The planning commission states that cell tower will not be visually obtrusive.*
- Cell tower will be 85' high obstructing lake views from Chippewa and mountain views from Tenino.*
 - There are not any trees this high in our area.*

Response: As part of the Major Use Permit Application Package, the applicant is required to submit a Photo Simulations Analysis of the proposed tower. (Refer to Exhibit C for details)

- h) *We were not given proper time to discuss issues.*
- We were timed 3 minutes each time we spoke, leaving us to stand in line over and over again. This can cause loss of information due to speakers being interrupted.*
 - We are requesting a minimum of 5 hours for our representatives to discuss the issues for this appeal and call witnesses.*
 - Would like to depose Cell tower representatives and their witnesses.*

Response: When the Chair of the Planning Commission discerns potentially significant amounts of public input, individuals are asked to keep their comments to three minutes. Planning Commission Chair Hess closed the public input portion of the item only after no one was present wishing to speak.

PROJECT DESCRIPTION

Applicant: Horizon Tower, L.L.P.

Owner: Richard Gubera

Location: 9475 Mojave Trail, Kelseyville

A.P.N.: 009-004-21

Parcel Size: ±39.5 acres

General Plan: Suburban Reserve

Zoning: “RR” Rural Residential

Flood Zone: “X”; outside the 500-year floodplain

PROJECT SETTING

Existing Uses and Improvements: The project parcel is currently developed with a residence

- North: Clear, Lake Riviera Subdivision, Unit 11. Parcels are zoned “R1” Single Family Residential. The parcels range in size from ±0.16 to ±0.24 acres in size.
- South: Clear Lake Riviera Subdivision, Unit 11. Parcels are zoned “R1” Single Family Residential. The parcels range in size from ±0.16 to ±0.24 acres in size.
- West: Parcels are zoned “RR” Rural Residential and “RL” Rural Lands. The parcels range in size from to ±39.5 to ±175 acres.
- East: Clear Lake Riviera Subdivision, Unit 11. Parcels are zoned “R1” Single Family Residential. The parcels range in size from ±0.16 to ±0.24 acres in size.

Topography: Parcel is fairly flat (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:

- Sodabay-Konocti association (223) has a 5 to 30% slope and is generally very deep and well drained. The permeability of this soil is moderately slow with a water capacity of approximately 9 to 10.5 inches. The surface runoff is rapid and the risk of erosion is severe.

Water Supply: Onsite well

Sewage Disposal: Onsite septic

Fire Protection: Kelseyville Fire Protection District

I. FINDINGS OF APPROVAL

On January 24, 2019, the Planning Commission made the required “Findings of Approval” for Major Use Permit, UP 18-01 (Article 51, Section 51.4a), and Wireless Communication Facility Approval (Article 71, Section 71.13). The Planning Commission found that, with the mitigations proposed in Initial Study, IS 18-06,

the project would not have significant impact on the environment, and adopted a Mitigated Negative Declaration. Required Findings of Approval can also be found in the Planning Commission Staff Report (*Exhibit C*).

A. Adopt a Mitigated Negative Declaration based on Initial Study, IS 18-06 for Major Use Permit, UP 18-01 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 Resources have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
5. Potential environmental impacts related to Tribal Cultural Resources have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
6. Potential environmental impacts related to Mitigation Monitoring and Expiration have been mitigated to insignificant levels with the incorporated Mitigation Measures and Conditions of Approval.
7. This project is consistent with land uses in the vicinity.
8. This project is consistent with the Lake County General Plan, Riviera Area Plan and Zoning Ordinance.
9. As mitigated, this project will not result in any significant adverse environmental impacts.

B. Approve Major Use Permit, UP 18-01 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. Approve the Wireless Communication Tower 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.

FISCAL IMPACT: ☒ None ☐ Budgeted ☐ Non-Budgeted

Estimated Cost:

Amount Budgeted:

Additional Requested:

Annual Cost (if planned for future years):

FISCAL IMPACT (Narrative): Action taken by the Board will have no fiscal impact on the County.

STAFFING IMPACT (if applicable): N/A

RECOMMENDED ACTION:

Staff recommends that the Board of Supervisors deny Appeal, AB 19-01 and uphold the Planning Commission decision dated January 24, 2019.

VII. SAMPLE MOTIONS

Appeal Denial

I move that the Board of Supervisors deny Appeal, AB 19-01 filed by Aurelia Johnson, of the Planning Commission's approval of a Mitigated Negative Declaration based on Initial Study, IS 18-06, and Major Use Permit, UP 18-01, that was approved by the Lake County Planning Commission on January 24, 2019 as indicated in the Board of Supervisors Memo dated April 16, 2019 and direct County Counsel to prepare proposed findings of fact.