



Legislation Text

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Memorandum

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Item # 3
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(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): for development of a 150' tall lattice wireless communications tower with equipment; Project location: 20114, 20226 and 20662 E. Highway 20, Clearlake Oaks (APNs: 010-009-39, 40 & 42)

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
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 Records/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 subject to the proposed Conditions of Approval (Attachment 9).

I. 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 wireless communication facility 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 (IS 22-21), 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) as applied for by Comsite West on property located at on property located at 20114, 20226 and 20662 E. State Highway 20, Clearlake Oaks, and further described as APNs 010-009-39, 40 & 42 meets the requirements of Section 51.4 of the Lake County Zoning Ordinance; and grant the Major Use Permit based on the Findings and subject to the 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, and further described as APNs 010-009-39, 40 & 42 meets 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 adopted for this project; and the Wireless Communication Facility be granted based on the Findings and subject to the 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*