1. **Roll Call.**

The meeting was called to order at 9:03 a.m. Commissioner Nelson arrived at 9:06 am.

2. **Determination of Legal Notice.**

Mr. Lynch advised the Commission that all items have been properly noticed.

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

Mr. Hall discussed the Director’s Report distributed to the Commission and noted the appeal for DR 2-2007 had been heard by the Board of Supervisors on June 10, 2008. He discussed the history of the project site and stated the Board had upheld the Zoning Administrator’s decision to approve the project upon adoption of a Negative Declaration. He discussed several applications recently heard by the Coastal Commission and noted the Gualala Fireworks was becoming an interesting situation, with the Coastal Commission requiring a Coastal Development Permit. Mr. Hall noted the upcoming Smart Growth Conference and commented it might be interesting to attend and could be relevant to Mendocino County. Lastly, he noted that the current status of the budget was that several vacant positions would remain vacant, but no layoffs would be required.

4. **Regular Calendar.**

4a. **CASE#: MS 10-2004 (continued from 5-15-08)**

   **DATE FILED:** 5/10/2004  
   **OWNER:** THOMAS & IRENE KEATING  
   **AGENT:** RICHARD SEALE  
   **REQUEST:** Modification of Conditions related to road improvement standards for a minor subdivision of a 47.1 acre parcel that created one parcel containing 22.5 acres and a Remainder Parcel containing 24.6 acres.  
   **LOCATION:** Approximately 2 miles southwest of the Willits City limits, on both sides of Shafer Ranch Road (Private), 1/2+- mile southwest of its intersection with Walker Ranch Road (CR# 299), located at 18801 Shafer Ranch Road; AP# 104-150-06 and 104-170-01.
Mr. Lynch reviewed the staff report and discussed the request for modification to road improvement standards for a previously approved minor subdivision. He noted the applicant had negotiated the condition with the Department of Transportation and although the road does not meet current standards, there was agreement that the condition was overly stringent and mitigation was disproportionate to the impacts created by the project. He stated the Department of Transportation and applicant had established a dollar amount of work to be completed and proposed alternative language agreeable to both parties.

Commissioner Nelson commented he felt it would be appropriate to waive the Fish & Game fee since it had been paid during the minor subdivision process.

Dick Seale, agent, stated the staff report was excellent and noted the applicant had committed to spend approximately $30,000 to improve the worst areas of the road.

Commissioner Calvert commented she was also in support of a fee waiver from the Department of Fish & Game and asked if the road improvements could be extended to the southern boundary of the remainder parcel, as stated in the original condition.

Mr. Seale commented the portion of road omitted by the alternative language probably did not need improvement and was primarily a flat, wide stretch, however, he deferred to Mr. Peters.

Tom Peters, Department of Transportation, noted the condition was written per the request of Mr. Keating, but to his recollection the section of road in question was between 15-18 feet wide. He noted it would not be difficult or costly to widen or grade that section of road.

Commissioner Calvert was concerned that this might be the best time to ask for offsite improvements and asked Mr. Peters if offsite improvements were an issue.

Mr. Peters noted there was good sight distance on the road, but it would not be a sizeable cost to widen to the road to eighteen feet, if the Commission chooses to extend the road. He noted future offsite improvements could be required through division of the remainder parcel.

Commissioner Calvert stated she was only concerned because the original condition asked for improvements to extend to the southern boundary of the remainder parcel and the alternative language had road improvements to end at the driveway for Parcel 1.

Mr. Peters felt it was not necessary to widen the couple hundred feet between the two areas, but to be consistent with the previous condition he felt they could extend the road to southerly boundary of the parcel 1.

Mr. Seale agreed the applicant would be willing to finish that section of road.

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

Mr. Lynch stated it could be added in the motion that the Commission recognizes that the applicant has previously paid the Department of Fish & Game fee for this entitlement and could express their support for a fee waiver.

Upon motion by Commissioner Calvert, seconded by Commissioner Bailey and carried by the following roll call vote, IT IS ORDERED to approve the modification of conditions for # MS 10-2004 per the General Plan Findings, the Project Findings, and modifying condition # 5 as drafted by the Department of Transportation further adding “Construct that portion of Road A from its intersection with Road H to the southerly boundary of proposed parcel 1 as per tentative map …”, to correct the spelling of the word culverts, and incorporate the language presented by staff regarding the Department of Fish & Game fee.

**RECOMMENDED MOTION:** Should the request be approved the following mitigation is provided:
Environmental Findings: The Planning Commission finds that the environmental impacts identified for the proposed modification of conditions can be adequately mitigated through the revised conditions of approval, or features of the revised project design, so that no significant environmental impacts will result from the proposed modification of conditions for this project, therefore, a Negative Declaration is adopted.

General Plan Findings: Pursuant to Section 66473.5 of the California Government Code, the Planning Commission finds the proposed modification of conditions for Minor Subdivision MS 10-2004, together with the provisions for its revised design and improvements is consistent with the applicable goals and policies of the General Plan.

Project Findings: The Planning Commission finds, pursuant to Section 17-41(O)(3)(a) and (c) of the Mendocino County Division of Land Regulations, that Condition Number 5, as originally imposed for Minor Subdivision #MS 10-2004 warrants modification based on proportionality, and therefore the Planning Commission approves the modification request subject to the following “revised” condition of approval:

CONDITION OF APPROVAL NUMBER 5 AS MODIFIED:

Construct that portion of Road “A” from its intersection with Road “H” to the new driveway on southerly boundary of proposed Parcel 1 as per tentative map (approximately 1,200 lineal feet more or less) to an eighteen (18) feet wide road within the access easement including four (4) inch minimum rock base, one hundred twenty five (125) foot minimum radius of horizontal curve, grade not to exceed fifteen (15) percent, drainage culverts where necessary. New or replaced culverts shall be a minimum of eighteen (18) inches in diameter.

The Commission recognizes that the applicant has previously paid the Department of Fish & Game fee for this entitlement and support a waiver of the fee for this Negative Declaration.

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

4b. CASE#: MS 6-2007 (continued from 6-5-08)
DATE FILED: 3/13/2007
OWNER: ADAM & HEIDI VLASAK
APPLICANT: ADAM & HEIDI VLASAK
AGENT: JIM RONCO CONSULTING
REQUEST: Minor Subdivision creating 5 parcels containing 0.85 +/- acres (0.48 +/- acres net), 0.65 +/- acres (0.47 +/- acres net), 0.81 +/- acres (0.68 +/- acres net), 3.86 +/- acres (3.50 +/- acres net) and a 1.72 +/- acre Remainder Parcel.
LOCATION: Southwest of Hopland town center lying south of Ralph Bettcher Drive (private) approximately 1200 feet west of it's intersection with Mountain House Road (CR# 111), directly west of Hopland Elementary School, located at 641 Ralph Bettcher Drive; AP# 048-400-45.
PROJECT COORDINATOR: FRED TARR

Mr. Lynch reviewed the staff report and noted a petition had been submitted by the agent signed by the neighboring property owners recommending approval of the minor subdivision. He noted the project was entirely within the floodplain, an engineer’s assessment and drainage report had been completed, and the property was below the base flood elevation. He noted staff has consistently recommended denial of minor subdivisions in the floodplain and discussed other projects that have been developed in the area. He discussed the amount of fill that would be required to build within the proposed subdivision and the impact fill could have on surrounding areas regarding the amount of water displaced and drainage patterns. He noted, should the Commission approve the project, staff had suggested Condition #5 and Special Condition #2 as mitigation.

Jim Ronco, agent, distributed photos to the Commission and noted he felt the project was consistent with the General Plan and Zoning since the property is zoned SR6K. He discussed the map on page PC 13 and noted the proposed subdivision would be consistent with neighboring parcels, had an existing water & sewer hookups and a road wide enough to serve a minor subdivision.

Commissioner Nelson asked if the applicant intended to import seven (7) feet of soil to provide fill.
Mr. Ronco stated only four (4) residences would be built thus some fill would be imported for four parcels, but he was not sure if native soil or import would be used and felt the engineer would have a more accurate answer. He noted some consideration had been given to building taller foundations.

Commissioner Nelson stated it would be easier to support the project if the proposed residences were two levels with a garage on the ground floor that would not displace water and living quarters above.

Mr. Ronco stated the applicants were open to ideas and had discussed a split-level design.

Chairman Little was concerned mounds of fill would act as a dam and raise the water level around the school site. He agreed with Commission Nelson that a project that specified any structures would be built above the high water mark, utilizing an under story garage, and not using fill as a means of raising the structure.

Commissioner Bailey asked Mr. Ronco to discuss how he felt the project was consistent with the General Plan.

Mr. Ronco noted the property was zoned Suburban Residential and would be a low impact project located adjacent to schools, using existing hookups and providing housing to the community.

Commissioner Nelson noted he found substantial issue was the availability of water in Hopland and felt it had consistently been a problem with new development in the Hopland area.

Mr. Ronco felt water would not be an issue since the applicant had existing hookups and thought housing might actually save water over the previous agricultural use of a vineyard.

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

Commissioner Moser agreed with previous comments that a garage on the ground level designed to allow water to pass through would be a superior project.

Commissioner Bailey commented that the project was not about design of houses, but a minor subdivision. She recognized the zoning and existing services, but did not feel that development in the floodplain was consistent with the General Plan.

Commissioner Calvert asked if the Commission has the ability during the subdivision process to condition structures.

Mr. Lynch stated the Commission had authority to condition the structures through a deed restriction or putting a note on the Parcel Map eliminating fill, etc. He discussed the aerial photos on pages PC 19 and PC 20 and discussed building activity in the area. He felt if further activity in the floodplain continued, cumulatively it would cause a problem because even a split-level home would displace some water.

Commissioner Moser felt it made sense to restrict fill and to add preventative measures to avoid the displacement of water.

Commissioner Nelson noted that fill was not his only concern in the floodplain, but also a watertight structure could displace water and cause further problems.

Mr. Ronco noted the applicants were supportive of the displacement issue, but they hoped the Commission would not condition the parcel to an extent that would make it impossible to build a home.

Frank Zotter, County Counsel, noted it would be acceptable to craft a condition that no fill be used or to suggest during construction the lower structure not be used for habitation and not displace flood waters more than structure that had an accessory type use.
Commissioner Bailey asked what the drainage study or report would accomplish in Special Condition #2.

Mr. Lynch stated it was mostly in reference to the import of fill and if that fill would cause drainage issues, e.g. create a dam and how that would impact the adjacent properties and school. He noted the condition was not saying that no displacement could occur, but that surrounding properties would not be impacted by the development.

Commissioner Bailey noted she did not feel the project was consistent with the General Plan, but considering the SR zoning, and the opportunity to set conditions that would lessen impact to the area, she made a motion to approve MS 6-2007 per the findings and conditions contained in the staff report on pages PC 8-10 and to add Special Condition #3 requiring that the applicant displace as little water as possible during the construction of buildings, specifically placing habitable space above the floodplain with parking below, on piers, that no fill be used in any manner, and no block walls be constructed.

Commissioner Nelson asked if staff had any standard language that could be used for displacement and flow of water.

Mr. Lynch noted Special Condition #2 covered part of the displacement of water, but he was constructing new language for Special Condition #3.

[Break 9:57 am. – 10:04 am]

Commissioner Bailey restated her recommendation for approval of the project and presented the language drafted by Mr. Lynch during the break for Special Condition #3 as follows: “A note shall appear on the Parcel Map that future development on individual parcels shall be precluded from utilizing fill to raise residential construction above the base flood elevation. Further, any displacement of flood waters shall to the maximum extent possible cause no adverse impact on surrounding lands and shall utilize design standards to minimize exposure of flood hazard.” Commissioner Nelson seconded the motion.

Commissioner Calvert asked if the recommended language for Special Condition #3 would preclude walls that would create dams.

Mr. Lynch noted the applicant must comply with Condition #5 and Special Condition #2 requiring a letter of map revision, a building permit, and a flood hazard permit before construction could begin.

Commissioner Calvert asked if Condition #1g on page PC 8 should have the reference to fill removed since it was prohibited by new Special Condition #3.

Mr. Lynch noted condition #1g was related to Best Management Practices and would be necessary for trenches, etc.

Commissioner Nelson commented that he had supported the motion, but it went against his better judgment due to the water situation in Hopland. He noted it was a serious problem and was not being dealt with.

Upon motion by Commissioner Bailey, seconded by Commissioner Nelson and carried by the following roll call vote, IT IS ORDERED to approve Minor Subdivision # MS 6-2007 per the finding and conditions of approval contained in the staff report on pages PC 8 through page PC 10, adding Special Condition #3 to state “A note shall appear on the Parcel Map that future development on individual parcels shall be precluded from utilizing fill to raise residential construction above the base flood elevation. Further, any displacement of flood waters shall to the maximum extent possible cause no adverse impact on surrounding lands and shall utilize design standards to minimize exposure of flood hazard”.


**Environmental Findings:** The Planning Commission finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project, therefore, a Negative Declaration is adopted.

**General Plan Findings:** Pursuant to Section 66473.5 of the California Government Code, the Planning Commission finds the proposed subdivision, together with the provisions for its design and improvement is consistent with the applicable goals and policies of the General Plan.

**Project Findings:** The Planning Commission, making the environmental and General Plan findings above, approves #MS 6-2007 subject to the following conditions of approval as recommended within the staff report, further finding:

Pursuant to California Government Code Section 66445(e) the Planning Commission finds that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement.

**STANDARD CONDITIONS OF APPROVAL:**

For a Minor Subdivision which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map.

**ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.**

1. The subdivider shall acknowledge in writing to the Department of Planning and Building Services that all grading activities and site preparation, at a minimum, shall adhere to the following “Best Management Practices”. The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.

   a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.

   b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.

   c. All concentrated water flows shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.

   d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.

   e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below area subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.

   f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year unless wet weather grading protocols are approved by the Department of Planning and Building Services or other agencies having jurisdiction.

   g. Pursuant to the California Building Code and Mendocino County Building Regulations, a grading permit will be required unless exempted by the Building Official or exempt by one of the following:

   1.) An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 11/2 units horizontal (66.7%).
2.) A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3m³) on any one lot and does not obstruct a drainage.

2. A notation shall be placed on the Parcel Map stating that. “Future development of building site(s), access roads or driveways may be subject to the grading requirements and drainage control measures identified above.”

3. All building pads will have compaction of 95%.

4. Prior to the development phase of the project, the subdivider shall contact the Mendocino County Air Quality Management District for a determination as to the need for an Asbestos Dust Mitigation Plan and/or Geologic Survey to comply with CCR section 93105 and 93106 relating to naturally occurring asbestos. Written verification from the Air Quality Management District shall be submitted to the Department of Planning and Building Services stating that the project is in compliance with State and Local regulations relating to naturally occurring asbestos.

5. The applicant have prepared, submitted to FEMA, and accepted by the County and FEMA a Letter of Map Revision to address the cumulative impacts from development within the Hopland area lying west of the Russian River in the vicinity of Feliz Creek.

6. All areas within the subdivision subject to flooding shall be clearly identified on the Parcel Map. The information on the parcel map shall be based on a flood hazards report prepared by a Civil Engineer and filed with the Planning and Building Services Department and the Mendocino County Department of Transportation. The flood hazards report, using data developed by the Federal Emergency Management Agency, shall clearly identify the magnitude of the flood potential as such relates to the subdivision. A reference to the report shall be made on the parcel map.

7. The flood hazards report shall also include the ten (10) year flood line to the satisfaction of the Division of Environmental Health. The flood hazard report shall also note that new development must have all public utilities and facilities, such as sewer, gas, electricity, and water systems designed and constructed to minimize or eliminate flood damage.

8. A note shall appear on the Parcel Map that “No toxic, hazardous or contaminated materials or waste shall be stored in a designated buffer area or clearly identified floodplain or floodway”.

9. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1926.75 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to June 20, 2008 July 7, 2008 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.

10. Pursuant to Mendocino County Code Chapter 10A.13 (Nuisance and Consumer Disclosure), a notation shall appear on the Parcel Map that the property is adjacent to or within 300 feet of an Agricultural Preserve (Lands within a Williamson Act Contract) and may be subject to inconvenience or discomfort arising from agricultural practices which occasionally generate dust, noise, smoke and odors.

11. There shall be provided an access easement of 60 feet in width (as per tentative map) from a publicly maintained road to each parcel being created. Documentation of access easement(s) shall be provided to the Mendocino County Department of Transportation for their review prior to final approval.
12. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown, as easements, with widths as shown of record or a minimum of ten (10) feet, whichever is greater.

13. If approval of the tentative map is conditioned upon certain improvements being made by the subdivider, the subdivider shall notify the Mendocino County Department of Transportation when such improvements have been completed.

14. A note shall be placed on the Parcel Map stating: “All natural drainage and water courses shall be considered as easements. Minimum width shall be twenty (20) feet, or to the high water level plus five (5) feet horizontal distance, whichever is greater. Such easements shall be shown on the Parcel Map. (All parcels 5 acres and less)”

15. Eighteen (18) foot wide road within the access easement including four (4) inch minimum rock base, one hundred twenty-five (125) foot minimum radius of horizontal curve, grade not to exceed fifteen (15) percent, drainage culverts where necessary. New or replaced culverts shall be a minimum of 12 inches in diameter.

16. A 40-foot radius turnaround shall be constructed within a 50-foot radius easement at terminus of access easement to the satisfaction of the Mendocino County Department of Transportation.

17. The subdivider shall comply with those recommendations in the Hopland Fire District letter of May 6, 2008, or other alternatives as acceptable to the Fire District. Written verification shall be submitted from Fire District to the Department of Planning and Building Services that condition(s) has (have) been met to the satisfaction of the Fire District.

18. The applicant shall either (1) submit to the Division of Environmental Health, a letter from the district(s) or agency(s) stating that water and/or sewer services (and main extensions, where required) have been installed to the satisfaction of the district or agency to serve each lot in said subdivision and connected to the system providing the service(s) and has been accepted by the district or agency for maintenance by said district or agency (Mendocino County Code 17.55 & 17.56); or (2) the applicant shall submit a letter to the Division of Environmental Health from the district(s) or agency(s) stating that engineered improvement plans for the future installation of services (and main extensions, where required) for each lot and the connection to the system providing the service are acceptable to the district, including maintenance of the system by the district and the applicant shall submit a letter to Division of Environmental Health from the County Engineer stating that performance bonds or other adequate surety have been secured, to the satisfaction of the County Engineer, to cover the cost of the installation of services (and main extensions, where required) for each lot and the connection to the system providing the service per Mendocino County Code Chapter 17 Article VIII.

19. A note shall appear on the Parcel Map that in the event that archaeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

20. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the Parcel Map, the subdivider must:

   Obtain a Certificate from the Mendocino County Tax Collector stating that all current taxes and any delinquent taxes have been paid and: (2) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.

SPECIAL CONDITIONS:

1. A note shall appear on the Parcel Map that states: “All lights, whether installed for security, safety, or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.”

2. A drainage report shall accompany the grading permit and FEMA study which shall insure that drainage facilities can be provided to maintain existing drainage patterns, taking water to a satisfactory point of
disposal, without negatively impacting surrounding lands or increasing the Base Flood Elevation on off-site lands.

3. “A note shall appear on the Parcel Map that future development on individual parcels shall be precluded from utilizing fill to raise residential construction above the base flood elevation. Further, any displacement of flood waters shall to the maximum extent possible cause no adverse impact on surrounding lands and shall utilize design standards to minimize exposure of flood hazard”.

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

4c. CASE#: MS 24-2007 (continued from 6-5-08)

DATE FILED: 10/24/2007
OWNER: DORIS & WILLIAM LOVETT
APPLICANT: DORIS & WILLIAM LOVETT
AGENT: WILLIAM E. LOVETT JR.
REQUEST: Minor Subdivision to create two parcels of 20 acres each.
LOCATION: 3.3 +/- miles north of Laytonville on Hwy 101 to Valley Drive (private), west on Valley Drive approximately 0.3 +/- miles to its intersection with Lovett Road (private), south on Lovett Road, 0.1 +/- miles to the property, located at 49501 Valley Drive; AP# 013-180-02.
PROJECT COORDINATOR: FRED TARR

[Chairman Little recused himself and passed the gavel to Commissioner Nelson]

Mr. Lynch reviewed the previous hearing and noted the item had been continued due to concerns regarding design standards of the bridge, and time was provided to allow the applicant to acquire an assessment of the bridge from Rau & Associates. He discussed the report that had been prepared by Rau & Associates, which concluded that it was not necessary to post a lower weight limit on the bridge because it meets California codes. He noted staff did not feel maintenance issues would apply due to existing road/bridge maintenance provisions and noted the Department of Transportation was in agreement with staff.

Marty Plute, agent, stated he was satisfied with the staff report, but had a few questions regarding condition #11 regarding the recommendations from Long Valley Fire District or “other acceptable alternatives.” He felt there was no recommendation presented in the letter and asked the Commission to delete the second half of Condition #11. He also felt the condition was misleading and implied there was no maintenance agreement for the road and bridge.

Mr. Lynch noted the language regarding the fire district was standard and applied to the PRC 4290 Regulations. He noted it would provide some “wiggle room” for the fire districts to accept alternatives and was relaxed condition language that would allow the applicant to work through the process. Mr. Lynch read the Fire District letter for the Commission.

Chairman Nelson asked if the PRC 4290 regulations would cover the project should the Commission deleted the second half of Condition #11.

Mr. Lynch stated it would take out the local agency, leaving CalFire as the reviewing entity.

Commissioner Moser thought, from the applicant’s description of work completed, that the issues raised in the Fire District letter had been addressed thus the condition had been met and was not a concern.

Chairman Nelson asked if staff was satisfied that no standard road associate existed, but a legal organization existed to maintain the road and bridge.

Mr. Lynch noted it had been presented in the underlying title of the land, a maintenance structure to provide for future care for the road and bridge, however he was unsure if that policy would carry on to a successor. He also noted that since the road served as access for more than one parcel, he did not feel the Commission would have the authority to impose a road maintenance agreement.
Chairman Nelson asked if it would be harmful to remove the language regarding road association.

Commissioner Bailey noted the Fire District letter only recommends an inspection and that the applicant complies with the 4290 regulations.

Mr. Plute distributed a packet to the Commission that contained several attachments including the title record providing for the maintenance of the road and bridge, and the final clearance letter from CalFire stating the applicant had met/satisfied all requirements of PRC 4290.

Commissioner Bailey commented she understood the applicant’s request to remove part of condition #11, however she did not feel the language was onerous and asked if only the section “or other alternatives as acceptable to the Fire District” was stricken.

Mr. Plute felt that would be acceptable to strike only a small section of condition #11 and noted for the record that the bridge was not the only access to the subdivision.

Chairman Nelson cautioned the applicant that if he understood staff correctly removing language could actually hurt the applicant.

Mr. Lynch stated Chairman Nelson was correct, it might be damaging to the applicant to remove the language.

Commissioner Moser agreed that to remove the language would make the condition language more restrictive and he did not see a conflict with keeping the language. He noted it allowed the applicant more options.

Mr. Plute stated he would prefer to have the language removed.

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

Upon motion by Commissioner Bailey, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED to approve Minor Subdivision # MS 24-2007 per the findings and conditions of approval contained in the staff report on pages PC 4 through page PC 6, noting the Condition language for #2f was changed during the 6-5-08 meeting to read “…unless authorized by Planning and Building Services and conditioned upon agreement of wet weather grading protocol”, to change the date in Condition #5 to July 7, 2008, to delete the section of Condition #11 that states “or other alternatives as acceptable to the Fire District”.

Environmental Findings: The Planning Commission finds that: the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project, therefore, a Negative Declaration is adopted.

General Plan Findings: Pursuant to Section 66473.5 of the California Government Code, the Planning Commission finds the proposed subdivision, together with the provisions for its design and improvement is consistent with the applicable goals and policies of the General Plan.

Project Findings: The Planning Commission, making the environmental and General Plan findings above, approves the requested waiver of parcel map per Section 17-49 (1) of the Mendocino County Division of Land Regulations and approves Minor Subdivision (MS 24-2007), subject to the following conditions of approval as recommended within the staff report, further finding:

The proposed minor subdivision complies generally with all requirements of the Subdivision Map Act and of the Mendocino County Code, specifically with respect to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability and environmental protection.
STANDARD CONDITIONS OF APPROVAL:

For a Parcel Subdivision, which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map.

ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.

GENERAL CONDITIONS OF APPROVAL

**1.** Pursuant to the California Building Code and Mendocino County Building Regulations, a grading permit will be required unless exempted by the Building Official.

**2.** The subdivider shall acknowledge in writing to the Department of Planning and Building Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Beat Management Practices". The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.

a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.

b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.

c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.

d. Temporary erosion control measures shall be in place at the end of each day’s work, and shall be maintained until permanent protection is established.

e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.

f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year, unless authorized by Planning and Building Services and conditioned upon agreement of wet weather grading protocol.

g. Pursuant to the California Building Code and Mendocino County Building Regulations, a grading permit will be required unless exempted by the Building Official or exempt by one of the following:

1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope grater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1 1/2 units horizontal (66.7% slope).

2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 cubic meters) on any one lot and does not obstruct a drainage.

**3.** A notation shall be placed on the Unilateral Agreement stating, “Future development of building site(s), access roads or driveways may be subject to the grading requirements and drainage control measures identified above”.
**4.** Prior to the development phase of the project, the sub-divider or property owner shall contact the Mendocino County Air Quality Management District for a determination as to the need for an Asbestos Dust Mitigation Plan and/or Geologic Survey to comply with CCR Section 93105 and 93106 relating to naturally occurring asbestos. Written verification from the Air Quality Management District shall be submitted to the Department of Planning and Building Services stating that the project is in compliance with State and Local regulations relating to naturally occurring asbestos.

**5.** This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1,926.75 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to June 20, 2008 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.

**6.** Pursuant to Mendocino County Code Chapter 10A.13 (Nuisance and Consumer Disclosure), A notation shall appear on the Unilateral Agreement that the property is adjacent to or within 300 feet of Agricultural Preserve (Williamson Act Contract) or Timber Production Zoning and may be subject to inconvenience or discomfort arising from agricultural practices which occasionally generate dust, noise, smoke, and odors.

**7.** There shall be provided an access easement of 50 feet in width (as per tentative map) from a publicly maintained road to each parcel being created. Documentation of access easement shall be provided to the Mendocino County Department of Transportation for their review prior to final approval.

**8.** If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record, or a minimum of ten (10) feet, whichever is greater.

**9.** If approval of the tentative map is conditioned upon certain improvements being made by the sub-divider, the sub-divider shall notify the Mendocino County Department of Transportation when such improvements have been completed.

**10.** ROAD IMPROVEMENT REQUIREMENTS

A. Eighteen (18) foot wide road within the access easement including four (4) inch minimum rock base, one-hundred twenty-five (125) foot minimum radius of horizontal radius horizontal curve, grade not to exceed fifteen (15) percent, drainage culverts where necessary. New or replaced culverts shall be a minimum of 12 inches in diameter.

B. A 40-foot radius turnaround shall be constructed within a 50-foot radius easement at terminus of access easement to the satisfaction of the Mendocino County Department of Transportation.

C. A report prepared by a Civil Engineer shall be filed with the Mendocino County Department of Transportation, verifying that the creek crossing can sustain an HS-20 loading and support all combinations of State legal loads. The report shall verify that, in the opinion of the Engineer, the crossing has been constructed in accordance with acceptable industry practice, is suitable for a structure sited at this location, and has no outstanding maintenance defects or limitations. Any bridge construction, or modifications, shall be performed under the direct supervision of a Civil Engineer.
**11. The sub-divider shall comply with those recommendations in the California Department of Forestry (CalFire) letter of July 7, 2006, (CDF# 267-06) or other alternatives as acceptable to the Department of Forestry. Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.

The sub-divider shall comply with those recommendations in the Long Valley Fire District letter of December 18, 2007, or other alternatives as acceptable to the Fire District. Written verification shall be submitted from Fire District to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Fire District.

**12. The applicant shall provide the Division of Environmental Health adequate advance written notice (minimum of 15 days) of the date and time of any field soil testing procedures for any proposed on-site sewage systems to allow the Division of Environmental Health staff to be present for soil testing.

**13. The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM # 42.04) for both parcels completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board’s Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division of Environmental Health’s Land Division Requirements (DEH FORM # 26.09).

**14. The applicant shall submit to the Division of Environmental Health an acceptable water quantity evaluation (DEH FORM # 26.05), completed by a qualified individual, of water source located on parcel(s) 1 or 2 of the sub-division demonstrating an adequate water supply in compliance with the Division of Environmental Health’s Land Division Requirements (DEH FORM # 26.09).

**15. The applicant shall submit to the Division of Environmental Health an acceptable standard mineral analysis performed by a certified public health laboratory from a source of water on the subdivision.

**16. A note shall appear on the Unilateral Agreement that, in the event that archaeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

17. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the Unilateral Agreement, the sub-divider must: (1) Obtain a Certificate from the Mendocino County Tax Collector stating that all current taxes and any delinquent taxes have been paid and; (2) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.

THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE APPROVED PARCEL MAP OR UNILATERAL AGREEMENT IS RECORDED BY THE COUNTY RECORDER.

AYES: Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

[Chairman Little was recused from this item.]

Chairman Nelson passed the gavel back to Commission Little

4d. CASE#: CDMS 27-2006
DATE FILED: 10/27/2006
OWNER: DUNCAN & DEANNA THOMSON AND LYLE & YVONNE DAVIS
APPLICANT: DUNCAN M THOMSON
REQUEST: In the Coastal Zone approximately ¾ miles east of Fort Bragg lying on both sides of an unnamed private access road, approximately 500 feet north of its intersection with Old Willits Road (CR# 415).
LOCATION: In the Coastal Zone, approximately 0.75+/- miles east of Fort Bragg, lying on both sides of Estaer Lane (private) approximately 500 feet north of its intersection with Old Willits Road (CR# 415), located at 32390 Old Willits Road; AP# 018-380-15.

PROJECT COORDINATOR: DENNIS CHATY

Mr. Lynch reviewed the staff report and discussed the previous subdivision from 1978. He noted the property was located within the Coastal Zone and had a variable density that would allow 2-acre minimums with a hydrological study. He noted the discussion on pages PC 2 and PC 3 and that each parcel would have a 2500 gallon water storage tank. He noted several letters of correspondence had been received concerned with water, Home Owners Association, fire danger, the width of road, the fact that there was only a thirty (30) foot easement, and several neighbors felt no further density should be created and they expected that no new development would occur on the road.

Tom Peters, Department of Transportation, discussed MS 33-78 regarding the thirty foot versus the fifty foot easement. He noted the original subdivision from 1978 included an exception to road easement standards for the first thirty feet where it crossed a neighboring ownership from the publicly maintained road. He noted the Planning Commission had approved the exception request since the road was sufficiently wide to incorporate improvements.

Mr. Peters passed around the tentative map and noted there was a fifty foot easement provided, but where the road attached to the county road was limited to thirty feet for distance of approximately 30-60 feet.

Duncan Thomson and Lyle Davis, applicants, stated they were satisfied with the staff report and conditions of approval.

The public hearing was declared open.

Daniella Pavon spoke for Joe Sutphin. She discussed the letter submitted by Jared Carter and noted if the number of parcels served by the subject road increased, the road width must be widened to eighteen feet and a thirty foot easement was not wide enough to grant the subdivision. She was also concerned that there was no road maintenance agreement or a discussion regarding the creation of an entity to service the road and the amount of damage that would be created by increased traffic. She stated the request should be denied on the basis that the subdivision could not be performed on a road with a thirty foot easement and referenced page PC 7, Condition #6 “There shall be provided an access easement of fifty (50) feet in width…”, which the applicant cannot provide. She noted her client was also concerned with a lack of water in the area, but recognized that others had addressed that issue in correspondence.

Commissioner Nelson asked if the main concern was the maintenance cost.

Ms. Pavon stated the main concern was the addition of two residences at the end of the road, which her client had thought could only have one residence. She noted the cost of road maintenance was also a concern, but Mr. Sutphin had the impression from the 1978 subdivision that only one additional residence would be allowable due to the thirty foot easement.

Chairman Little noted that Mr. Carter’s letter indicated Mr. Sutphin relied upon information that no parcels could be further divided and asked what the nature of the information received was and why Mr. Sutphin would believe that no further subdivision was possible.

Ms. Pavon stated most of the information was received from the deeded easement and some information was received from the previous property owner.

Chairman Little noted there was nothing in the record that stated no further subdivision would occur.

Ms. Pavon agreed there was nothing written, but felt the General Plan Circulation Element was sufficient documentation stating that a subdivision of more than 4 parcels would require a fifty foot right of way.
Mr. Lynch noted that four or fewer parcels required an access easement of forty feet and more than four parcels required fifty feet. He noted the Commission had two options: 1. To approve the project with the thirty foot easement, subject to renoticing the project and processing the applicants request for an exception to road easement width from fifty feet to thirty feet, or, 2. To approve the subdivision with the fifty foot easement and leave the burden to the applicant to obtain that fifty feet.

The public hearing was declared closed.

Mr. Thomson responded that he felt thirty feet was adequate to service the road.

Chairman Little noted the original exception was provided because it was only a four parcel division, and by allowing further development would be contrary to that exception.

Mr. Lynch noted, if the Commission chose to grant an exception, it would be a new, separate exception from that granted in 1978.

Commissioner Nelson asked how much traffic could be expected on the road if all parcels were developed to the fullest.

Mr. Lynch noted the property did have a variable density, however, only two more homes could be possible.

Commissioner Calvert clarified the zoning of proposed parcel 4, on page PC 12 as RR 5.

Mr. Lynch stated Commissioner Calvert was correct and parcel 4 could not be further divided.

Commissioner Calvert clarified that the only parcel with any potential to be subdivided was the current application.

Mr. Lynch cautioned the Commission that to approve the subdivision, the applicant would need a new exception and the project would have to be renoticed, thus it might be wiser to continue the item to a future meeting and wait for the applicant to submit his request for exception.

Commissioner Moser noted he was inclined to continue the item and renotice the project.

Upon motion by Commissioner Moser, seconded by Commissioner Bailey and carried by the following roll call vote, IT IS ORDERED to continue CDMS 27-2006 to a future Planning Commission meeting directing the applicant to submit an application for an exception to road access standards.

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

4e. CASE#: U 1-2008
DATE FILED: 1/25/2008
OWNER: PATRICIA WATSON
APPLICANT: ALLEN FINK, ON AIR LLC.
REQUEST: Use permit to authorize the construction and operation of a telecommunication facility to support a wireless carrier (Verizon Wireless) consisting of a 78-foot tall "monopine" (monopole designed to resemble a pine tree), 6 panel antennas, a 60-kilowatt diesel generator with a 210 gallon diesel tank and a 12-foot by 20-foot equipment shelter.
LOCATION: In the Piercy area, lying on the south side of County Road #442C, 0.4+/& miles east of its intersection with State Highway 271, located at 80441 Road 442C: AP# 053-120-08.
PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, Project Coordinator, reviewed the staff report and noted the false branches of the monopine would extend above the tower and referenced the aerial photo on page PC 16, which demonstrated the relationship between the leased area and the entire parcel. He noted the property owner had an existing agreement with Verizon regarding the private road issue and had asked the applicant to submit a letter stating they were comfortable with the existing arrangement and felt the condition for roadwork was not necessary. Mr. Duley discussed the balloon fly and noted several
photos illustrating the visual impacts of the tower. He noted the view of the tower would be blocked from several locations, but would also be visible from several residential structures and had proposed a condition to provide landscaping around the facility.

Commissioner Calvert disclosed that Verizon was her cell phone carrier and asked if the vegetation would create a problem with reception in the future and if that problem would be alleviated by page PC 8, condition #15.

Mr. Duley noted it could be inferred that should the landscaping interfere with the function of the tower, the trees could be trimmed.

Allen Fink, agent, noted they were pleased with the site, but had a few questions regarding the conditions of approval. He discussed condition #9 and stated that Verizon had a lease with the adjacent property owner, paying a set amount per year for use of the road, thus condition #9 could be deleted and a copy of the lease would be provided to the County. He noted regarding condition #10 and condition #19 that Verizon had signed a letter and sent a copy to staff stating that Verizon, and its successors, had agreed to allow future carriers on available space.

Chairman Little asked if Mr. Fink felt the last sentence of condition #19 should also be removed. Mr. Fink noted anyone that submitted an application could collocate on a Verizon tower and asked if Chairman Little was requesting that priority be given to the County. He also suggested that to satisfy condition #11b the County should contact Verizon if there was a problem instead of requiring Verizon to provide an annual vegetation report. He asked the Commission to clarify the intent of condition #20 that should property owner fail to cooperate with another carrier, the use permit with the County could be revoked. Mr. Fink felt Verizon had no control over the property owner and condition #20 was a hardship to Verizon.

Commissioner Bailey asked if the applicant felt the entire condition #20 should be deleted or just the last sentence. Mr. Fink stated it was just the second sentence that he would like deleted.

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

Commissioner Calvert felt replacement language was needed if condition #9 was deleted, so there would be something to ensure Verizon obtained a lease. She noted she was inclined to leave condition #11b as written, to keep the sentence in condition #19 regarding public agencies, and to edit condition #20 to make it workable.

Mr. Lynch noted on condition #20 that the applicant was Verizon, but the entitlement went with the landowner.

Commissioner Bailey felt condition #20 should be kept with suggested language.

Commissioner Calvert thought there was little point to condition #13 if it would be difficult to plant native landscaping.

Commissioner Moser asked if condition #11b should be deleted since the surrounding vegetation would not need monitoring.

Mr. Lynch noted the monitoring was not for vegetation, but for deterioration of the pole.

Commissioner Calvert felt condition #11b was not asking for the intended monitoring and should be changed slightly.

Commissioner Moser felt language could be added to state “and color assessment to inspect deterioration of the monopole and surrounding vegetation.”
Mr. Duley provided the amended language for condition #9 to state “the applicant shall provide evidence of a road maintenance agreement with all owners served by the private road”.

Upon motion by Commissioner Calvert, seconded by Commissioner Moser and carried by the following roll call vote, IT IS ORDERED to approve Use Permit # U 1-2008 per the findings and conditions contained in the staff report on page PC 6 through page PC 9, modifying condition #9 to state “the applicant shall provide evidence of a road maintenance agreement with all owners served by the private road”, modifying condition #11b after the fifth line to add the language “of installation material”, deleting condition #13 and renumbering the remaining conditions and to change the date on condition #29 to June 19, 2018.

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

**Environmental Findings:** The Planning Commission finds that the project can be adequately mitigated through conditions of approval and therefore the Commission adopts a Negative Declaration.

**Project Findings:** The Planning Commission approves #U 1-2008 subject to the conditions of approval recommended by staff further finding:

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

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

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

**RECOMMENDED CONDITIONS OF APPROVAL:**

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

**2.** Temporary erosion control measures shall be in place at the end of each workday and shall be maintained until permanent protection is established.

**3.** Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:

   a. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).

   b. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.

**4.** All grading activities must comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

**5.** Prior to the development phase of the project, the applicant shall contact the Mendocino County Air Quality Management District for a determination as to the need for any applicable permits for the proposed generator.
**6.** The access road shall be covered with an impermeable sealant or rocked at a bare minimum. Any rock material used for surfacing, including rock from onsite sources, must comply with regulations regarding asbestos content.

**7.** Generators shall be enclosed by a noise barrier shelter designed by an acoustical engineer and remain oriented and screened to limit excessive noise to surrounding residences. Generators shall be equipped with mufflers and spark arresters, and shall not produce noise levels exceeding 50 dBA at the nearest off-site residence. Routine testing and maintenance shall be limited to weekdays between 8:30 a.m. and 4:30 p.m. Repairs and emergency use are not included in this limitation.

**8.** Exterior light fixtures shall be designed or located so that only reflected, non-glaring light is visible from beyond the immediate vicinity of the site, and shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.

**9.** Prior to development of the site the applicant shall provide to the Department of Planning and Building Services, an assessment prepared by a registered civil engineer of the condition of the existing private road, serving the site to provide baseline data on the condition of the road. The assessment may include photos or video but shall include a written narrative to document the road's current status. Any damage to the road associated with construction activity shall be repaired to an "as is" or better condition.

**9.** The applicant shall provide evidence of a road maintenance agreement with all owners served by the private road.

**10.** The facility shall provide if requested, space for any emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.

**11.** a. Branches of the tree shall extend beyond the antenna and fully conceal the supporting structure and antennas.

b. An evaluation of the facility's stealth capability shall be submitted for review and approval by the Department of Planning and Building Services after the initial construction, one year following construction and every five years thereafter. The report shall assess surrounding vegetation growth, including height and density in the vicinity, and a color assessment to assess fading of installation material. Replacement or remediation of the wireless facility shall be performed by the applicant if required by the Department of Planning and Building Services.

**12.** Exterior surfaces of structures and equipment shall have subdued colors and non-reflective materials selected to blend with their surroundings. Color samples shall be submitted to the Department of Planning and Building for approval.

**13.** A Landscaping Plan shall be submitted for review approval by the Director of Planning and Building Services and shall provide details as to the location, size and type of plantings. The plan shall include a landscape maintenance program to ensure the installation and maintenance of required landscaping. Vegetative landscaping shall include pine trees placed in a "random" pattern so as to appear more natural. The Landscape Plan must be approved by the Planning and Building Department prior to issuance of any building or grading permits. Failure to maintain landscaping shall be grounds for revocation of the use permit.

**13.** This permit shall authorize a maximum of 78 foot high "monopine" design with adequate load and structural integrity that could support co-location at a future date.

**14.** Existing trees and other vegetation, which will provide screening for the proposed facility and associated access roads, shall be protected from damage. No trees that provide visual screening of the communications facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility.
**15.** One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower. All signage shall be located and designed to have the least visual impact possible. The intent is that Federal safety requirements will be met with the least visual impact from public locations.

**16.** If use of any portion of the proposed facility is discontinued for more than one year, all parts of the facility not in use, above grade, shall be completely removed from the site, and the site shall be restored to a natural-appearing condition.

**17.** Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the facility and restoration of the site in the event that the applicant abandons operations or fails to comply with requirements for removal of facilities and restoration of the site.

**18.** By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site. If requested, public agencies shall be permitted to co-locate their facilities.

**19.** Prior to the issuance of building permits, evidence shall be submitted showing that a provision is included in the signed lease agreement that reserves co-location opportunities. In the event the applicant and/or the property owner fails to cooperate with the co-location of other communication facilities, such refusal or lack of cooperation shall be grounds for termination/revocation of the use permit granted herein.

**20.** Prior to the final inspection by the Building Division of the Department of Planning and Building Services, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger than one square foot, shall be mounted on an exterior wall in a location visible when approached from the street, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.

**21.** The antennas and supporting structure shall be inspected every ten years, and following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity, and a report of the engineer’s findings shall be submitted to the Planning and Building Services Department.

**22.** Prior to commencement of operations, all surplus construction materials and debris, including cleared vegetation, shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.

23. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.

24. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless the Planning Commission has approved a modification.

25. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

26. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:

a. That the permit was obtained or extended by fraud.

b. That one or more of the conditions upon which the permit was granted have been violated.
c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

27. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.

28. This permit is issued for a period of ten years, and shall expire on February 15, 2017, June 19, 2018. The applicant has the sole responsibility for renewing this permit before the expiration date. The county will not provide a notice prior to the expiration date.

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

**30. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1,926.75 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 7, 2008 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

4f. CASE#: MS 25-2007
DATE FILED: 10/29/2007
OWNER: RICHARD JR. & KAFEY FOLTZ
APPLICANT: RICHARD JR. & KAFEY FOLTZ
REQUEST: Minor Subdivision to create 4 parcels of 40,000 square feet, 41,300 square feet, 41,000 square feet and 40,600 square feet.
LOCATION: In Laytonville, 1.5 +/- miles west of the town center, lying east of North Road (CR# 319E) and west of Stump Road (CR# 319J) approximately 500 feet north of the intersection with Branscomb Road (CR# 429), located at 44200 Stump Road; AP# 014-373-27.
PROJECT COORDINATOR: MARY LYNN HUNT

Mr. Lynch reviewed the staff report and noted no road improvements were required, however the County was asking for a dedication along North Road of ten feet and along Stump Road of five feet for the County road system.

Commissioner Nelson noted the acreage did not add up.

Mr. Lynch stated the acreage represented the size of the parcels after easements were deducted.

Kafey Foltz, owner/applicant, stated she was pleased with the staff report and the conditions of approval and was available for questions.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.
Upon motion by Commissioner Calvert, seconded by Commissioner Moser and carried by the following roll call vote, IT IS ORDERED to approve Minor Subdivision # MS 25-2007 per the findings and conditions of approval contained in the staff report on page PC 4 through page PC 7.

**Environmental Findings:** The Planning Commission finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project, therefore, a Negative Declaration is adopted.

**General Plan Findings:** Pursuant to Section 66473.5 of the California Government Code, the Planning Commission finds the proposed subdivision, together with the provisions for its design and improvement is consistent with the applicable goals and policies of the General Plan.

**Project Findings:** The Planning Commission, making the environmental and General Plan findings above, approves #MS 25-2007, subject to the following conditions of approval as recommended within the staff report, further finding:

Pursuant to California Government Code Section 66445(e) the Planning Commission finds that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement.

**STANDARD CONDITIONS OF APPROVAL:**

For a Minor Subdivision, which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map.

ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.

1. The subdivider shall acknowledge in writing to the Department of Planning and Buildings Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Best Management Practices". The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.

   a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.

   b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.

   c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.

   d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.

   e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.

   f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year unless wet weather grading protocols are approved by the Department of Planning and Building Services or other agencies having jurisdiction.

   g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1½ units horizontal (66.7% slope).

2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m$^3$) on any one lot and does not obstruct a drainage.

2. A notation shall be placed on the Parcel Map/Unilateral Agreement stating that, “Future development of building site(s), access roads or driveways may be subject to the grading requirements and drainage control measures identified above.”

3. A note shall appear on the Parcel Map that the access road, driveway and interior circulation routes be maintained in such a manner as to insure minimum dust generation subject to Air Quality Management District Regulation 1 Rule 430. All grading must comply with Air Quality Management District Regulations Rule 430. Any rock material, including natural rock from the property, used for surfacing must comply with Air quality Management District regulations regarding asbestos content.

4. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1,926.75 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 7, 2008 (Within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has “no effect” on the environment. If the project is appealed, the Department of Planning and Building Services will hold the payment until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

5. That verification be received by a licensed civil engineer or surveyor that each parcel created is a minimum of 40,000 square feet net.

6. Parcel A (as per tentative map) shall be dedicated by Parcel Map along the east side of CR# 319E to provide for the ultimate improvement of the County road. Parcel B (as per tentative map) shall be dedicated by Parcel Map along the west side of CR 319J to provide for the ultimate improved of the county road.

7. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record or a minimum of ten (10) feet, whichever is greater.

8. If approval of the tentative map is conditioned upon certain improvements being made by the subdivider, the subdivider shall notify the Mendocino County Department of Transportation when such improvements have been completed.

9. All natural drainage and water courses shall be considered as easements. Minimum width shall be twenty (20) feet, or to the high water level plus five (5) feet horizontal distance, whichever is greater. If a Parcel Map is filed, such easements shall be shown on the final parcel map. (All parcels 5 acres and less.)

10. Any proposed work within County rights-of-way requires obtaining an encroachment permit from the Mendocino County Department of Transportation.

11. The subdivider shall comply with those recommendations in the **California Department of Forestry Fire Safe Regulations (CDF# 411-07 and 469-07)** or other alternatives as acceptable to the Department of...
Forestry. Written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry. In addition, the subdivider shall also contact the Long Valley Fire District and written verification shall be submitted from the fire district to the Department of Planning and Building Services that any conditions that they may require has been met to their satisfaction.

12. The applicant shall provide the Division of Environmental Health adequate advance written notice (minimum of 15 days) of the date and time any field soil testing procedures for any proposed on-site sewage systems to allow the Division of Environmental Health staff to be present for soil testing.

13. The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM # 42.04) for parcel(s) 1, 2, 3 and 4 completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division

14. The applicant shall submit to Division of Environmental Health an acceptable wet weather groundwater monitoring and soil permeability data report completed by a qualified individual demonstrating acceptable areas for the initial and replacement sewage disposal areas which are in compliance with the North Coast Regional Water Quality Control Board's "Basin Plan Policy for On-site Waste Treatment and Disposal" and Mendocino County Division of Environmental Health's "Land Division Requirements" (DEH FORM # 26.09).

15. The applicant shall either (1) submit to the Division of Environmental Health, a letter from the district(s) or agency(s) stating that water (and main extensions, where required) have been installed to the satisfaction of the district or agency to serve each lot in said subdivision and connected to the system providing the service(s) and has been accepted by the district or agency for maintenance by said district or agency (Mendocino County Code 17.55 & 17.56); or (2) the applicant shall submit a letter to the Division of Environmental Health from the district(s) or agency(s) stating that engineered improvement plans for the future installation of services (and main extensions, where required) for each lot and the connection to the system providing the service are acceptable to the district, including maintenance of the system by the district and the applicant shall submit a letter to Division of Environmental Health from the County Engineer stating that performance bonds or other adequate surety have been secured, to the satisfaction of the county engineer, to cover the cost of the installation of services (and main extensions, where required) for each lot and the connection to the system providing the service per Mendocino County Code Chapter 17 Article VIII.

16. A note shall appear on the Parcel Map that in the event that archaeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

17. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the Parcel Map the subdivider must: (1) Obtain a Certificate from the Mendocino County Tax Collector stating that all current taxes and any delinquent taxes have been paid and; (2) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.

THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE APPROVED PARCEL MAP IS RECORDED BY THE COUNTY RECORDER.

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

4g. CASE#: U 3-2008
DATE FILED: 3/11/2008
OWNER: FREDERICK & JAN WILLIAMS
APPLICANT: FRED & JAN WILLIAMS
REQUEST: Development of a winery to produce 300 cases of wine per year—Production, storage and eventual bottling and
case storage only. There will be no on site wine sales or tasting.
LOCATION: Approximately 5+/- miles north of Philo, lying on the north side of Nash Mill Road (private), approximately 0.5+/- miles east of its intersection with Highway 128, located at 68200 Nash Mill Road; AP# 026-294-09.
PROJECT COORDINATOR: FRED TARR

Mr. Lynch reviewed the staff report and noted the proposal was for a boutique winery that would produce less than 300 cases per year with no sales or tastings conducted on site. He noted the concern Anderson Valley residents had expressed about wine tasting facilities on private roads, however wine tasting was not part of the application and noted only one family would be working at the winery.

Commissioner Nelson asked if condition #2, the Department of Fish & Game, had been paid for a previous permit.

Mr. Lynch stated the fee would not have been paid for building the single family residence and noted the applicant could seek a waiver of the fee from the Department of Fish & Game.

Commissioner Nelson commented that he felt anything that may impact wildlife had already been built and the fee was not necessary.

Commissioner Bailey asked what would be required if the applicant wished to expand to wine tasting and sales in the future.

Mr. Lynch stated the applicant would need to apply for a modification of the use permit, which would come back before the Commission and require a public notice.

Fred Williams, owner, stated he has been a lifelong wine maker and wanted only a hobby vineyard.

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

Upon motion by Commissioner Bailey, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED to approve Use Permit # U 3-2008 per the findings and conditions of approval contained in the staff report on pages PC 4 and PC 5, adding new condition #B6 to state "No onsite sales or wine tasting shall be permitted by this entitlement", to amend Condition # 5, Condition #6 and Condition #7 as per memo dated June 10, 2008 submitted by staff.

Environmental Findings: The planning Commission finds that no significant environmental impacts would result from the proposed project which cannot be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

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

Project Findings: The Planning Commission approves #U 3-2008 subject to the conditions of approval recommended by staff further finding:

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

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

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

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

1. The applicant shall submit written clearance from the Air Quality Management District to the Department of Planning & Building Services prior to issuance of the Change of Occupancy permit (or the final clearance of the permit as may be appropriate), and all required permits and clearances have been acquired.

2. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1926.75 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 7, 2008 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to insure timely compliance with this condition.

3. Outside lighting shall be kept at a minimum. All external lights shall be shielded and downcast.

4. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. This would include a “Change of Occupancy” permit, as may be determined by the Department of Planning and Building Services for the conversion of a portion of the building to a winery. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

5. A qualified septic system site evaluator shall provide information that demonstrates that the existing septic system has additional capacity to serve the proposed increase in use or propose another solution that meets County requirements. The owner shall be required to obtain any permits for modification or other construction related to the septic system and to execute these permits prior to placing the winery into production.

6. Elevation drawings of all signs shall be prepared or caused to be prepared by the applicant. Said drawings shall include visual appearance. Total sign area shall be limited to a maximum of four (4) square feet and may not be illuminated. The drawings shall be submitted to the Department of Planning and Building Services for review and approval.

7. Should any archeological artifacts be discovered on the site, the applicant/operator shall comply with all requirements of Chapter 22.12 of the Mendocino County Code.

B. Conditions which must be complied with for the duration of this permit:

1. The maximum production authorized by this permit shall be 300 cased per year. No on-site tasting by the public or retail sales (other than by mail) shall be authorized by this permit.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.

3. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.

4. This permit shall be subject to revocation or modification by the Zoning Administrator upon a
finding of any one or more of the following grounds:

a. That the permit was obtained or extended by fraud.

b. That one or more of the conditions upon which the permit was granted have been violated.

c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

4h. CASE#: UR 27-91/2003/2007
OWNER: HAWTHORNE TIMBER COMPANY
APPLICANT: MELVIN & PATRICIA PYORRE
REQUEST: Renewal of Use Permit and Reclamation Plan for the extraction and processing (crushing and screening) of 120,000 cubic yards of material (max. annual rate of up to 30,000 cubic yards) from an existing hillside quarry for a period of ten (10) years.
LOCATION: Approximately 6.65 miles northeast of Fort Bragg, 3+/- miles east of State Hwy 1 via Little Valley Road (CR# 813I), lying on the southwest side of the Ten Mile River, no street address; AP# 069-120-01.
PROJECT COORDINATOR: JOHN SPEKA

Mr. John Speka, Project Coordinator, reviewed the staff report and discussed the history of the existing hillside quarry. He noted the reclamation plan was a three phase process and discussed the drainage design with settling ponds into Ten Mile River. He noted one letter had been received from a neighbor concerned with revegetation of the site and the invasion of Pampas Grass, and secondly with the water source used for washing materials. Mr. Speka noted new condition #28 had been provided in the memo dated June 19, 2008 for a Notice of Reclamation Plan Approval, which complies with new legislation regarding SMARA projects.

Commissioner Bailey noted the estimated annual cubic yards of rock exceeded the allowed amount of 120,000 cubic yards for the permit.

Mr. Speka stated the permit allowed for 120,000 cubic yards, but the applicant was allowed to extract up to 30,000 cubic yards per year, up to the permitted allowance. He noted the condition language gave the applicant the option to extract more in one year than another, but still no more than 120,000 cubic yards.

Melvin Pyorre, applicant, noted he was happy with the staff report and conditions of approval.

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

Upon motion by Commissioner Moser, seconded by Commissioner Calvert and carried by the following roll call vote, IT IS ORDERED to approve Use Permit and Reclamation Plan Renewal #UR 27-91/2003/2007 per the findings and conditions of approval contained in the staff report on pages PC 7 through page PC 11 adding new Condition #28 regarding the Notice of Reclamation Plan Approval as recommended by staff in the memo dated June 19, 2008.
RECOMMENDED MOTION: The Planning Commission approves Use Permit and Reclamation Plan Renewal #UR 27-91/2003/2007 for a period of 10 years subject to the conditions of approval recommended by staff and based on the following findings:

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project that cannot be adequately mitigated through the conditions of approval; therefore, a Negative Declaration is adopted.

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

Project Findings: Upon making the above findings, the Planning Commission approves Use Permit Reclamation Plan Renewal #UR 27-91/2003/2007 as submitted by Big River Rock Company, further finding that implementation of the plan is compliant with Mendocino County Code Section 22.16.090 and will leave the mined land in a usable condition which will be environmentally safe and readily adaptable for appropriate alternative land uses.

CONDITIONS OF APPROVAL:

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

** 1. The applicant shall adhere to all extraction and slope recommendations as presented in the March 2008 Reclamation Plan prepared by Timothy C. Best, CEG. All recommendations made within Section 3.0 (Mining and Reclamation Plan- Phases 1, 2 and 3), 4.0 (Revegetation Plan), and Appendix A: Design Specifications, each dated March 26, 2008, shall be considered conditions of approval for the subject use permit and reclamation plan. Mining and screening operations shall occur only during the dry season (May 1 to October 15), while transport of stockpiled material may occur year round. The final reclamation and revegetation of the site shall be done in conformance with the reclamation plan prepared for the operator, Big River Rock Company, dated March 2008. A signed statement accepting responsibility for said reclamation shall be submitted to the Department of Planning Building Services prior to operations at the site.

** 2. Annual inspections shall be conducted by a Certified Engineering Geologist or licensed Geotechnical Engineer to assess the success of the recommendations set forth in the Mining and Reclamation Plan and Design Specifications, both dated March 26, 2008, especially with respect to the stability of the previously mined and/or final reclaimed cut slopes, and to make recommendations for changes as necessary. Results from said inspections shall be submitted in writing (along with related photo documentation and/or illustrations) to the Department of Planning and Building Services on an annual basis. Should the slopes be found to be unstable, an amended reclamation plan shall be submitted to the Department of Planning and Building Services providing for a reconfigured design to the satisfaction of a registered professional in the field.

** 3. The applicant shall submit the appropriate mining inspection and monitoring fee of $3,900.00 to the Department of Planning and Building Services within 30 days of approval. Fee estimates were calculated for an approximate 10-year period at an extraction rate of 30,000 cubic yards of material.

** 4. The rock quarry operation shall not exceed 120,000 cubic yards of rock, with a maximum limit of 30,000 cubic yards of material in any given year over a 10-year period.

** 5. Within 60 days of approval of this permit the limits of the quarry as they appear in the grading plan shall be staked by a licensed surveyor, registered civil engineer or engineering geologist, indicating the quarry boundaries. The stakes shall remain in place until the operation is reclaimed.

** 6. During the non-operating months, quarried rock shall be stockpiled at a slope not exceeding 2:1.
7. The application along with supplemental exhibits and related material are to be considered elements of this entitlement and compliance therewith mandatory, unless a modification has been approved by the Planning Commission. Particularly, the applicant shall develop the site and conduct operations in conformance with measures identified in the Storm Water Pollution Prevention and Monitoring Program (SWPPP), dated March 26, 2008, prepared by Timothy C. Best, CEG. The SWPPP shall be updated with the Regional Water Quality Control Board (RWQCB) to reflect any changes and will designate Big River Rock Company as the responsible party for implementing the SWPPP. The new SWPPP shall be approved by the RWQCB and submitted to the Department of Planning and Building Services within six months of the renewal of this permit. The said document shall remain on file with the Department of Planning and Building Services.

8. The access roads shall be maintained during operating season and winterized at the completion of each season by grading and ditching as necessary to minimize winter erosion and stream sedimentation. All major grading operations and/or project related activity which may promote erosion and sedimentation to existing or adjacent water courses shall be confined to non-winter months or during dry winter periods. Winter quarry operations may continue if the following conditions are met:

a. No hauling of rock products during periods of measurable precipitation and for at least 24 hours after the end of a significant rainfall event. This is defined as an amount of more than ¼ inch in any 24-hour period and/or an aggregate rainfall total of more than 2 inches during a 48-hour period.

b. The SWPPP prepared by Timothy C. Best, CEG shall be the operational plan for the quarry, processing site and haul road.

9. No material shall be placed into or where it may pass into any stream or watercourse in quantities that would be deleterious to fish, wildlife or other beneficial uses.

10. The applicant shall comply with all regulations of the Mendocino County Air Quality Management District, including obtaining any required additional permits necessary for the site of this application. The applicant shall undertake measures to reduce dust generated by the operation and ensure that the truck haul road to be used is treated with a dust suppressant or watered during haul periods.

11. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1,926.75 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 7, 2008. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if project is approved) or returned to the payer (if project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to ensure timely compliance with this condition.**

12. Upon completion of all mining activities and subsequent grading of final slope configurations (per specifications of the reclamation plan), the applicant shall utilize the services of a qualified contractor (as determined by the Department of Planning and Building Services) to perform the revegetation portion of the reclamation plan. All recommendations made within Section 4.0 (Revegetation Plan), dated March 26, 2008, shall be considered conditions of approval for the subject use permit and reclamation plan.

13. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
** 14. Noise levels created by the operation as measured at the nearest residence other than that of the mine owner or operator shall not exceed the following:

a. 55 dBA for a cumulative period of more than 30 minutes in any hour.
b. 70 dBA for a cumulative period of more than 12 minutes in any hour.
c. 75 dBA for a cumulative period of more than 3 minutes in any hour.
d. 80 dBA for a cumulative period of more than 1 minutes in any hour.
e. 85 dBA at any moment.

** 15. The hours of operation shall be limited to between 7:00 a.m. and 6:00 p.m. on weekdays and Saturdays.

** 16. Annually, prior to July 1st, the applicant shall supply to the Department of Planning and Building Services an accounting of the quantities and types of materials extracted and/or processed from each location that season. The accounting report shall indicate the dates on which the specified volumes were removed, the method used to calculate the volume figures and the signature of the person responsible for completing the report. Such report shall be submitted even if no material was removed that season.

** 17. All non-turbo charged equipment shall have approved spark arrestors installed and shall carry “ABC” type fire extinguisher(s).

** 18. There shall be no on-site fuel storage in association with this project including gasoline, oil, or similar materials.

** 19. In the event that archaeological resources are encountered during normal operation activities at the site, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

20. This permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the permittee to make use of this permit within one year or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit. This permit shall expire on June 19, 2018. The applicant has sole responsibility for renewing this permit before the expiration date listed above. The County will not provide a notice prior to the expiration date.

21. This permit shall be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

22. The applicant shall submit to the Department of Planning and Building Services a written statement that provides the operator’s name, contact person and proposed quantities to be mined. Said statement shall be submitted 30 days prior to commencement of any extraction. Prior to any change of operators, the applicant shall notify the Department of Planning and Building Services 30 days prior to extraction. The applicant shall provide an accounting of all materials mined by each operator. Any change in operators shall not exempt the applicant/operators from providing required monitoring information.

23. The applicant shall grant access to the property during hours of operation to permit County representatives or any consultants hired by the County for inspection, enforcement, or monitoring activities deemed desirable by the County. The applicant shall designate an individual who is to be available at all times for purposes of supplying information deemed necessary by the authorized County representatives in connection with such work during working hours.

24. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described
boundaries are different than that which is legally required by this permit, this permit shall become null and void.

25. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
   a. The permit was obtained or extended by fraud.
   b. One or more of the conditions upon which the permit was granted have been violated.
   c. The use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

26. A copy of the reclamation plan and grading plan shall be kept on site at all times.

** 27a. The applicant shall provide Mendocino County with a cash or surety bond or other acceptable form of financial assurance for the reclamation plan mitigation measures. The bond shall be available to both the County of Mendocino and the Department of Conservation. Any withdrawals made by the County or Department of Conservation for reclamation shall be redeposited by the applicant within 30 days of notification.

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

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

** 27b. Implementation and Verification. The financial assurance shall name both the County and the Department of Conservation as payees per the requirements of AB 3551. The amount will be based on an estimate of reclamation cost provided by the applicant and subject to review by both County staff and Counsel and the Department of Conservation. The financial assurance will be reviewed on an annual basis for adequacy and shall be released when the approved project, mitigation measures and final reclamation plan activities have been completed.

28. The applicant/operator shall have recorded with the County a "Notice of Reclamation Plan Approval" that shall include:
   a. A statement that "Mining operations conducted on the hereinafter described real property are subject to a reclamation plan approved by the County of Mendocino, a copy of which is on file with the County Department of Planning and Building Services," and;
   b. A legal description of the property subject to the said reclamation plan.

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner
5. Matters from Staff.

5a. CASE# OA 2-2008

APPLICANT: COUNTY OF MENDOCINO
AGENT: PLANNING AND BUILDING SERVICES
REQUEST: Amend the Flood Plain Combining District ordinances within Chapter 20.120 (Inland) of Division I of Title 20 and Chapter 20.420 (Coastal) of Division II of Title 20 of the Mendocino County Code. The Flood Plain Combining Districts provide County guidelines for development within Federal Emergency Management Agency (FEMA) designated flood plain and floodways. The amendments are proposed to comply with recent changes in federal and state regulations primarily dealing with the establishment of lowest floor, defining alternative methodologies for determining base flood elevation in areas not specifically studied, development criteria for areas designated “coastal high hazard areas,” and clarifying and adding definitions within the ordinance.

LOCATION: All unincorporated areas within Mendocino County, excluding the city limits of Ukiah, Fort Bragg, Willits and Point Arena. Separate ordinances will be adopted for those areas within the designated Coastal Zone and the inland area of the County.

PROJECT DESCRIPTION: The County of Mendocino, in response to an assessment conducted by the State Department of Water Resources (DWR), is proposing to update its regulations dealing with administration of Flood Plain Development Permits as mandated by the Federal Emergency Management Agency (FEMA). DWR is the state agency charged with insuring that local agencies comply with federal regulations established by FEMA. Periodically, FEMA revises its “model ordinance” in order to update standards and mitigation from development in areas of known flood hazard are considered. The last time the County's Flood Plain Ordinance was updated was 1992. The latest DWR update to the “model ordinance” was December 2001. By addressing potential flooding impacts at the development stage, it is hoped that future disasters caused by large storm events are minimized thus ultimately reducing costly rescue and rehabilitation efforts.

PROJECT COORDINATOR: FRANK LYNCH

Commissioner Calvert noted she would need time to digest the information just presented and asked if a continuance would be appropriate.

Mr. Lynch noted he had received comments from Dennis Slota, County Water Agency, regarding the No Adverse Impact philosophy. He noted the information presented to the Commission was taken directly from the FEMA Model Ordinance for Floodplains and the Commission had the discretion to adopt a local ordinance that could be more restrictive to development in the floodplain. Mr. Lynch noted the No Adverse Impact philosophy would add the burden to the developer by requiring an assessment of full buildout for projects in that particular floodplain. He noted from the public protection, floodplain enhancement standpoint, the analysis provided would be greater than the State model ordinance.

Chairman Little asked if the Commission would like to continue the discussion of the Floodplain until the July 3, 2008 meeting.

Mr. Lynch noted the current County Ordinance was lacking in some areas such as the reference to the technical bulletins provided by FEMA, and the updated language would update the ordinance to minimum standards.

Commissioner Bailey asked if the presentation from Mr. Slota would alter the ordinance in any way.

Mr. Lynch noted it would not change the language, but the information could persuade the Commission to change or alter information, resulting in another ordinance that could be adopted at a later date.

The Commission discussed alternate dates that Mr. Slota could present his information and ultimately decided to accept the State Model language as presented by staff, recognizing there would be future opportunities to modify the ordinance.

Upon motion by Commissioner Calvert, seconded by Commissioner Bailey and carried by the following roll call vote, IT IS ORDERED to recommend adoption of Ordinance Amendment 2-2008 to the Board of Supervisors, reserving the right to make future amendments to the Ordinance.

ENVIRONMENTAL RECOMMENDATION: The project is Categorically Exempt from CEQA, per Section 15308. Further, no significant adverse impacts are anticipated. No further environmental consideration is necessary.
GENERAL PLAN CONSISTENCY RECOMMENDATION: The Safety Element of the General Plan contains the following policies related to flood plain protection:

- Adopt standards for reports required by the County relating to flood hazards.
- Promote compatible uses of areas designated as flood plains (i.e., agricultural, conservation, open space or recreation).

The Coastal Element of the General Plan states:

Heavy winter rains cause flooding nearly every year in the larger coastal watersheds; more serious flooding could be expected from the 100-year event. Flooding is of greatest concern in developed areas, such as those near the Noyo and Albion Rivers. The flood hazard areas designated on the Land Use Maps fall within the 100-year flood zone boundaries as mapped by the Federal Emergency Management Administration (FEMA). Property owners who believe they are adversely affected by inaccuracies in flood hazard mapping may file a written appeal.

The Plan goes on to provide policies regarding means to protect the environment and development from hazardous conditions. Staff, therefore believes that the proposed project is consistent with applicable goals and policies of the General Plan.

PROJECT RECOMMENDATIONS: The County may wish to consider amending the ordinance as presented to consider providing a greater level of flood protection by raising the acceptable building standard to 1 or more feet above the BFE. Again, this enhances the County’s position in securing lower rates for individual insurance costs. Staff recommends approval of Ordinance Amendment #OA 2-2008

RECOMMENDED MOTION FOR THE PLANNING COMMISSION: The Planning Commission recommends that the Board of Supervisors find that the project is categorically exempt from CEQA and approve Ordinance Amendment #OA 2-08 which will modify both the inland and coastal zoning ordinances (Division I and Division II of Chapter 20 of the Mendocino County Code respectively) making the following findings:

Environmental Findings: No significant adverse environmental impacts will result from the proposed amendment. Further the Board of Supervisors finds that the project is Categorically Exempt from CEQA (Class 8).

General Plan Consistency Finding: The proposed amendment is consistent with the applicable goals and policies of the General Plan and Coastal Element.

RECOMMENDED MOTION FOR THE BOARD OF SUPERVISORS: The Board of Supervisors finds that the proposed ordinance amendments are categorically exempt from CEQA, that the amendments are consistent with the General Plan and Coastal Element, and therefore approves OA 2–08 as follows:

1) The Board of Supervisors adopts Ordinance No. ______ amending Chapter 20.120 “FP” Floodplain Combining of Division I of Title 20 of the Mendocino County Code.

2) The Board of Supervisors tentatively adopts Ordinance No. ______ amending Chapter 20.420 “FP” Floodplain Combining of Division II of Title 20 of the Mendocino County Code.

3) The Board of Supervisors directs that the Department of Planning and Building Services staff submit the amendment to Chapter 20.420 to the California Coastal Commission for certification.

AYES: Little, Calvert, Bailey, Moser, and Nelson
NOES: None
ABSENT: Warner

Commissioner Nelson commented further on the water situation in Hopland and asked if any grant funding had been provided in for the area.

Mr. Lynch noted FEMA performed periodic studies on specific areas, but usually the studies begin at an established benchmark and move outward.

Mr. Lynch distributed the memo he had prepared regarding wineries in Anderson Valley in preparation for the July 3, 2008 Planning Commission meeting.

Mr. Zotter noted that no one from County Counsel would be present for the July 3, 2008 Planning Commission meeting.

7. Approval of Minutes.

There were no changes or correction to the May 1, 2008 Planning Commission Minutes.

Upon motion by Commissioner Calvert, seconded by Commissioner Bailey and carried by a voice vote of (4-0), with Commissioner Nelson abstaining, the May 1, 2008 Planning Commission Minutes are approved.

8. Matters from Public.

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


Upon motion by Commissioner Moser, seconded by Commissioner Calvert, and unanimously carried (5-0), IT IS ORDERED that the Planning Commission hearing adjourned at 12:24 p.m.