

2009-003545

Klamath County, Oregon



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03/13/2009 08:09:17 AM

Fee: \$31.00

BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 60-08,)
CASCADIA PM TO ESTABLISH A)
CELLULAR TOWER ON PROPERTY)
ZONED (NR) NON-RESOURCE,)
IDENTIFIED AS: R-3907-03000-00700)

CUP TYPE II
ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to establish a cellular tower on a parcel zoned Non Resource (NR). The Planning Director reviewed the request February 25, 2009 pursuant to KCLDC Article 22 – Administrative Review Procedure, Article 32 – Public Notice, Article 44 – Conditional Use Permit, Article 56 – Non Resource, and Article 63 – Wireless Telecommunications Facilities.

2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Leslie C. Wilson. Alyssa Boles, Planner, prepared the Planning Department Staff Report.

3. LEGAL DESCRIPTION:

The subject property described in the Conditional Use Permit file located in the Planning Department is described as Township 39 South, Range 07 East Willamette Meridian, Section 30, Tax Lot 700.

4. RELEVANT FACTS:

The applicant intends to construct a new 90' monopole cellular tower inside a new 30' x 35' fenced compound, built next to an existing tower. The subject parcel does not contain wetlands and is located in a Flood Zone C per FEMA map 410109 1200B. This parcel is in a High Wildfire Hazard area. The subject parcels are located within the Low – Medium Deer Winter Range. No other mapped Goal 5 resources were located on the property. The subject parcel is lawfully created per Deed Volume 1981-9151. Parcel has legal access via McLaughlin Lane View and access to the cellular tower site is provided by an existing easement.

5. FINDINGS:

All evidence submitted shows that the approval criteria as set out in the code have been satisfied. The Planning Director finds this application does conform to criteria set out as follows:

KCLDC Article 44.030(A-C)

- A. The use complies with the Klamath County Comprehensive Plan Goal 1 - Citizen Involvement because of the public notification process, Goal 2 - Land Use Planning because the surrounding public was notified as part of the administrative review process and because a staff report was prepared for this application, and Goal 11 - Public Facilities and Services, for supplying a public utility service.
- B. The use is in conformance with Article 56 because the zoning allows for the same conditional uses as the Farm and Forest zones, and wireless communication facilities are a conditional use in those zonings. Because the property lies within a Low - Medium Deer Winter Range, fencing restrictions apply and the applicant must comply with KCLDC Article 57.070(D). KCLDC Article 69 also applies and compliance with this article can be met by submitting a deed covenant as a condition of approval. Initially, the notice for this application noted a wrong tax lot number for its property identification. However, the owners of the property have three tax lots, but one parcel of land on one deed. Per ORS 197.763(3)(C), the tax lot is simply a geographic location for identification. Land use action was for the entire parcel.
- C. The proposed use will be located on the subject parcel next to the other tower already established, which will minimize impacts to the surrounding area and abutting properties. The site is located at an elevation of 4590 feet, which is 360 feet higher than the nearest house, so visibility of the towers should be limited. This would be the most appropriate place for the proposed development because its placement next to an existing tower lowers the impact to the wildlife habitat in the area, as well as the subject parcel itself.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of Cascadia PM for approval of CUP 60-08 is **APPROVED** subject to all Federal and State law, rules, or policy; Klamath County Land Development Code and County Ordinances; Oregon Fire Codes and Appendices; Oregon Building Codes and Appendices; Klamath County Public Works Standards, Policies, and Procedures; and, subject to the following additional Conditions of Approval:

Condition # 1

Prior to any site development, final clearances from Planning and Building must be obtained.

Condition # 2

Prior to application for site development permits, this final order must be recorded to the subject property. The applicant will supply the Planning Department with the applicable County Clerk recording fees and the Planning Department will record the final order on behalf of the applicant.

Condition # 3

The applicant shall record a restrictive covenant that runs with the deed agreeing to comply with Article 69 of the KCLDC. A copy of the recorded covenant must be supplied to the Planning Department.

Condition # 4

Demonstrate compliance with KCLDC Article 57.070(D) fencing requirements. Supply proof of compliance to the Planning Department.

Condition # 5

Supply proof of legal access to the Planning Department.

Condition # 6

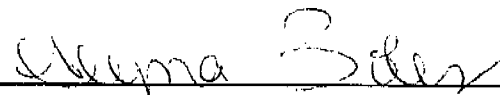
This approval will expire two years from the date of approval unless a Building Permit has been issued.

DATED this 25 day of FEBRUARY, 2009.



Leslie C. Wilson, Planning Director

Signed & Acknowledged before me this 25 day of Feb., 2009.



NOTARY PUBLIC FOR OREGON

My Commission Expires:

5-13-2012

