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BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF TYPE II)
ADMINISTRATIVE REVIEW 8-08,)
RYKA COMMUNICATION TO ADD)
ANTENNAS AND EQUIPMENT)
CABINETS TO AN EXISTING CELL)
TOWER SITE ON PROPERTY ZONED)
(F) FORESTRY, IDENTIFIED AS:)
R-3613-00000-06300-000)

CUP TYPE II
ADMINISTRATIVE
FINAL ORDER

KLAMATH COUNTY CLERK

1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to establish a pre-existing tower and add antennas and equipment cabinets within an existing cellular tower site on a parcel zoned Forestry (F). 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, 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 Conditional Use Permit File located in the Planning Department is described as Township 36 South, Range 13 East Willamette Meridian, Section 30, Tax Lot 06300.

4. RELEVANT FACTS:

The applicant intends to establish the use of a pre-existing cellular tower and add antennas and construct equipment cabinets within an existing cellular tower site. The original site was built on Forest Service ground. A Conditional Use Permit was required but not applied for. The subject parcel does not contain wetlands. The parcel is in Flood Zone C per FEMA map 410109 0975B. This parcel is in Medium and High Wildfire Hazard areas. The subject parcel lies within a Low- Medium Deer Winter Range. The parcel also is within the vicinity of a Bald Eagle Nest. Both of these resources may be impacted because the tower and additions. Conditions of approval will be included with this order to demonstrate compliance with KCLDC Article 57.

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 of participation in the quasi-judicial process, and Goal 11 – Public Facilities and Services, for supplying a public service.
- B. The original tower was established on Forest Service land. A Conditional Use Permit was required but not applied for. This Conditional Use Permit establishes the tower itself, plus the additions. The tower and all additions to the tower comply with all requirements of KCLDC Article 41 and 63. Compliance with Article 57 must be demonstrated as the tower and additions are within a Low-Medium Deer Winter Range and within the vicinity of a Bald Eagle's nest. The applicant must submit a letter from Oregon Department of Fish and Wildlife that the existing site and proposed developments will have no impact to the resources on the property.
- C. The location of the existing cellular tower is not being modified. Since the location is not changing, there should be no significant adverse impact on the surrounding area. Addition of antennas will not change the overall structure of the site. An additional building would have minimal impact because it would be located within the existing compound.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered the request of Ryka Communication for approval of Type II Administrative Review 8-08 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

Prior to application for site development permits, the applicant must submit a letter from Oregon Department of Fish and Wildlife that the existing tower and proposed additions will have no negative impact to wildlife on the property.

Condition # 4

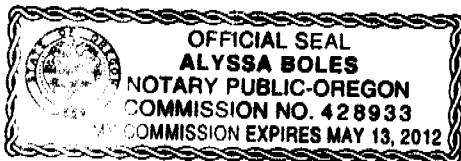
This approval will expire two years from the date of approval unless a Building Permit has been issued.

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

NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Klamath County Board of County Commissioners. Notice of intent to appeal a decision rendered under the procedures of the Klamath County Land Development Code shall be filed no later than seven (7) days following mailing of the final order. Failure to do so in a timely manner may affect your rights. Notice shall be in the form of a signed letter, shall state the name(s) of the party or parties appealing the decision, and must be received by the Planning Department before the close of business on the seventh day. The fee established by the Board of County Commissioners shall accompany the notice of appeal.

KCLDC ARTICLE 33.040 - STATEMENT OF APPEAL

No later than 7 days following the filing of a notice of appeal pursuant to Section 33.030, the appellant shall file with the Planning Department a written statement of grounds for the appeal explaining:

- A. How the Comprehensive Plan, Klamath County Land Development Code, or applicable State law was incorrectly interpreted or applied in the decision; or*
- B. What information in the record of decision was pertinent to the decision, but was not considered by the review body*

For more information, please contact:

**Klamath County Planning Department
Phone 1-541-883-5121 or mail at 305 Main Street, Klamath Falls, Oregon 97601**

Exhibits:

Administrative Review Application
Site Plan
Lease Agreement
Parcel Zoning/Wetlands/Big Game Map
FEMA Firmette
State Fire Marshal Comment
KC Public Works Comment

Exhibit 1
Exhibit 2
Exhibit 3
Exhibit 4
Exhibit 5
Exhibit 6
Exhibit 7

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