

2009-010815

Klamath County, Oregon



08/12/2009 11:50:31 AM

Fee: \$41.00

## BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF TYPE II )  
 ADMINISTRATIVE REVIEW 4-09, )  
 RYKA COMMUNICATIONS TO )  
 MODIFY AN EXISTING CELL TOWER )  
 SITE ON PROPERTY ZONED (F) )  
 FORESTRY, IDENTIFIED AS: )  
 R-3606-01000-00400-000 )

CUP TYPE II  
 ADMINISTRATIVE  
FINAL ORDER

### 1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to add additional antennas to an existing cell tower, construct an additional ancillary building, and install two (2) 499-gallon propane tanks. The fenced compound is an existing cellular tower site on a parcel zoned Forestry (F). The Planning Director reviewed the request March 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. Cindy Foster, Planner, prepared the Planning Department Staff Report.

### 3. LEGAL DESCRIPTION:

The subject property described is described as Township 36 South, Range 06 East Willamette Meridian, Section 10, Tax Lot 400. The general location is the top of Tomahawk Hill, approximately 3,000 feet south of Highway 140.

### 4. RELEVANT FACTS:

The applicant intends to establish the use of a pre-existing cellular tower. They propose to affix wireless antennas to the existing tower, and place an additional ancillary building and two (2) 499-gallon propane tanks in an existing fenced compound. The original site was established on Forest Service ground. A Conditional Use Permit was required but not applied for.

The parcel is in Flood Zone C per FEMA map 410109 0870B (Exhibit 5). This parcel is in a High Wildfire Hazard area. No Goal 5 protected resources were identified in the Planning Department maps. One comment was received from the Klamath County

**Scanned to CRW**

Building Department (Exhibit 7).

**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 cell site compound, the towers, buildings, and the additions. The tower and all additions to the tower comply with all requirements of KCLDC Article 41 and 63.
- C. The location of the existing cellular tower is not being modified. Since the location is not changing and the proposed development will be located within the existing compound, there should be no significant adverse impact on the surrounding area. Addition of antennas to an existing tower, placement of an additional building, and installation of two generators will not change the overall structure of the site.

**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 4-09 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**

*A bond or other security shall be required for the removal of the facility and must be made enforceable until such time the facility is removed. The bond or other security shall be payable to Klamath County. The bond is renewable every two years.*

**Condition #2**

*If the facility is left unused or is abandoned by all wireless providers located on the facility for more than one year, the facility shall be removed by the applicant within thirty days of being declared*

abandoned.

**Condition #3**

✓ When required, aviation lighting will use Fresnel lenses or suitable lenses to minimize ground lighting conflicts to the maximum extent regulated by the FAA or ODOT – Aeronautics regulations.

**Condition #4**

✓ When possible, the siting of the facility will utilize existing trees, vegetation, and topo to screen facility from view of nearby residences and roadways.

**Condition #5**

✓ A wireless telecommunication facility shall be vegetated and/or camouflaged to the maximum extent practicable to screen facility from view of roadways and residences.

**Condition #6**

The perimeter of the site plan shall be enclosed by a chain link security fence of not less than eight feet tall, topped by a three-strand barbed wire barrier, and to be erected within a week of construction of the tower.

**Condition #7**

Forest Service ✓ Applicant must provide documentation of legal access.

**Condition #8**

US Forest Service ✓ The applicant shall file a restrictive covenant with the Klamath County Clerk's Office recognizing the rights of adjacent and nearby landowners to conduct farming & forest operations and prohibit the permit grantee, or successors from filing any complaint of any type concerning accepted resource management practices and farm use.

**Condition #9**

✓ Tower setbacks shall be no less than the height of the tower.

**Condition # 10**

check provided 8-12-09 ✓ 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 # 11**

✓ Prior to any site development, final clearances from Planning and Building must be obtained. The project will require permits and

*inspections by the Klamath County Building Division.*

**Condition # 12**

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

DATED this 31 day of MARCH, 2009.

  
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Leslie C. Wilson, Planning Director

Signed & Acknowledged before me this 31 day of March, 2009.

  
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NOTARY PUBLIC FOR OREGON

My Commission Expires:

10/15/11  
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## 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	Exhibit 1
Letter from US Cellular	Exhibit 2
Site Plan	Exhibit 3
Parcel Zoning Map	Exhibit 4
FEMA Firmette	Exhibit 5
Agency & Property Owner Notices	Exhibit 6
Building Department & ODOT Comments	Exhibit 7