

City of Klamath Falls Planning Department
Administrative Review

In the matter of an
Administrative Review for:

Final Decision and Conditions: **2-CUP-11**

New Cingular Wireless PCS LLC
AT&T Mobility
1750 Delta Waters Road #102-326
Medford, OR 97504

Columbia Community Bank
314 East Main Street
Hillsboro, OR 97123

March 8th, 2011

In accordance with the provisions of Section 10.805 and 11.100 - 11.120 of the Community Development Ordinance (CDO), the City of Klamath Falls Planning Department has reviewed this request for a Conditional Use Permit.

NATURE OF THE PROPOSAL

The applicant, New Cingular Wireless PCS, LLC (AT&T Mobility), proposes to install a permanent 150 foot lattice tower, on property owned by Columbia Community Bank. This unstaffed telecommunications facility would have a 75 foot by 75 foot fenced leased area with support equipment. There is a proposed 6 foot high chain link fence with three barbwire strands that would secure the leased area. The temporary cell tower on wheels (COW) that was approved through 8-CUP-09 would be removed from the site once the proposed permanent lattice tower is operational. The existing Verizon lattice tower that is northwest of the proposed AT&T tower can not physically support additional antenna arrays. The existing Verizon tower is being decommissioned on December 31, 2011. The property is zoned Upper Ridge Residential District within the Southview Planned Unit Development (PUD). CDO 12.367(2) states that telecommunication facilities are permitted through the approval of conditional use permits in all Planned Unit Developments. Wireless telecommunication towers are permitted within this zone with the approval of a Conditional Use Permit (CUP). The property is addressed as 5200 Highway 140 West and can be found on Assessor's Map R-3808-03600 – Tax lot 400. The tower would be located at the top of the ridge southeast of the existing Verizon tower.

AGENCY COMMENTS

Planning:

1. **Landscaping:** No privacy hedges or landscaping will be required because the proposed temporary tower is located in a remote location where no public access is available.
2. **Access:** Roads and parking areas serving only telecommunication facilities shall be served by the minimum necessary requirements conforming to CDO Section 14.978: Roads & Parking. Specifically, subsection (1) which states, "Access roads shall be limited to eight feet (8') in width except where safety considerations demonstrated to the satisfaction of the Director demand a greater width with turnouts as required by the Fire Marshall." AT&T Mobility completed a compacted gravel apron before installing the temporary COW in 2010.
3. **Setbacks and Heights:** The proposed leased area does not encroach upon any setbacks. Per CDO 14.962: "Telecommunication towers shall be setback at least twenty percent (20%) of the tower height from all property lines and at least one hundred feet (100') from any residentially zoned property or public park." The proposed lattice tower is approximately 612 feet from the

northern property line, 3,364 feet from the southern property line, 796 feet from the western property line, and 514 feet from the eastern property line, all of which meet the required setback for a 150 foot high tower.

4. **Zoning:** The property is zoned Southview Planned Unit Development (PUD): Upper Ridge Residential District. Section 12.367(2) states that telecommunication facilities are permitted with the approval of a conditional use permit in all PUD zones. The proposed 150 foot lattice tower is a permitted use on the subject property.
5. **Fences:** The applicant proposes to install a 6' high chain link fence with 3 strands of barbwire. The fence height meets the CDO requirements, and barbwire is allowed. Any new fence requires a fence permit (no fee) prior to installation.
6. **Signs:** As CDO Section 14.980 requires: All telecommunication facilities shall have a permanent, weather proof, 16" by 32" facility identification sign which shall be placed on the gate of the fence. This sign shall identify the facility operator, provide his/her address, and specify a 24 hour emergency telephone contact number.

Engineering:

1. Per Community Development Ordinance 14.040(1) requires that areas used for off-street parking and maneuvering vehicles, including driveways shall have either concrete or asphalt surfaces, constructed in a manner approved by City Engineering with proper drainage.
2. Depending on the decision made by the Community Development Director regarding above item 1; the applicant at a minimum, per Public Works Engineering, shall at least pave (concrete or asphalt) the driveway apron where it connects to a paved street for a length of at least 25 feet and a width of 20 feet. The remaining driveway access to the site can then be rocked and compacted in a 12-foot minimum width. This will help in containing dirt, mud and other debris from entering the paved streets and existing underground storm drainage infrastructure.
3. Southview Development has a Site Construction Permit for Erosion & Sediment Control that coincides with the State of Oregon's DEQ 1200-C permit. Eagle Consulting Group and AT&T shall adhere to the conditions of those permits.

Building Department:

1. Building permit submittals shall include a comprehensive code evaluation, drawings, calculations, and specifications for the project. Unless waived by the Building Official, all design documents shall be prepared and stamped by an Architect or Engineer licensed by the State of Oregon to practice as such.
2. Building Permit application shall include site plan and development approvals from City Of Klamath Falls Planning and Engineering departments. Any variations to the site plan require re-approval by the City Of Klamath Falls prior to issuance of building permit(s).
3. No work shall commence prior to plan review and issuance of the appropriate building and trade permits.
4. Phased construction and / or deferred submittals require approval of the Building Division and submittals for such work shall follow established policy for plan review. No work shall commence prior to review and approval of the associated project phase.

Fire District #1: "I have reviewed the Administrative Review Sheet for the proposed 150 foot lattice tower at the top of Moore Hill. KCFD1 has no objection to the applicant's request

provided the construction is in compliance with the applicable codes adopted by the State of Oregon.”

City of Klamath Falls Airport: “Require FAA Form 7460 Notice of Proposed Construction for Part 77 Compliance (height atop a prominent hill) and R.F. Compatibility. Spectrum analysis (is necessary) as this is area of significant aviation frequency interference and on airport impact.”

Bureau of Reclamation: “In response to the City of Klamath Falls Planning Departments administrative review request for the subject applicant’s proposal to construct a permanent 150 foot lattice tower at the top of Moore Hill, the Bureau of Reclamation has no comments and/or concerns at this time. There are no Reclamation facilities adjacent or in the vicinity of the proposed construction site.”

Avista Utilities: No comments were received.
Pacific Power: No comments were received.
Charter Communications: No comments were received.
Qwest: No comments were received.
Oregon Dept. of Fish & Wildlife: No comments were received.

Proponents: No comments were received.
Opponents: No comments were received.

REQUIRED FINDINGS

Criterion #1: The conditional use permit conforms to all provisions of Chapter 10 to 14 and any applicable street plan.

Staff Analysis: The applicant, New Cingular Wireless PCS, LLC (AT&T Mobility), proposes to install a permanent 150 foot lattice tower. This unstaffed telecommunications facility would have a 75 foot by 75 foot fenced leased area with support equipment. There is a proposed 6 foot high chain link fence with three barbwire strands that would secure the leased area. The temporary cell tower on wheels (COW) that was approved through 8-CUP-09 would be removed from the site once the proposed permanent lattice tower is operational. The existing Verizon lattice tower that is northwest of the proposed AT&T tower can not physically support additional antenna arrays. The existing Verizon tower is being decommissioned on December 31, 2011. Wireless telecommunication towers are permitted within the Upper Ridge Residential District within the Southview PUD through the approval of a CUP.

The applicant is responsible for the antennas meeting all Federal, State and local communications, aviation and environmental codes and requirements. The applicant shall provide notice to the FAA of the proposed addition of antennas prior to placement.

The project shall not interfere with any Airport facility. If any conflict or interference is determined, the applicant shall correct the situation immediately by removal, relocation, or other means.

The Oregon Department of Fish and Wildlife did not comment regarding Bald Eagle nesting sites. It was determined the temporary COW tower which is slightly northwest of this proposed permanent tower would not interfere with nearby Bald Eagle nesting site #683 because it was farther than 660 feet away. If this proposed permanent tower is

within 660 feet of the nest site, the applicant shall delay construction activity until after the eagle breeding season.

Access to the site is via an unimproved (gravel) drive, privately maintained. The property is within an approved Planned Unit Development and the site should be accessible by improved private roads at full PUD Development.

Finding: *The proposed conditional use permit will conform to all applicable provisions of chapters 10 – 14 of the Community Development Ordinance through conditions. **This criterion is met with conditions.***

Criterion #2: **The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls, and fences, parking, loading, landscaping, and other features required to adjust said use with land and uses in the neighborhood.**

Applicant: The proposed site location is in a remote location where no public access is available. This leased area will be fenced and (have) a locked gate.

Staff Analysis: The proposed site is a 75 foot by 75 foot leased area or 5,625 square feet. The subject property is 166.31 acres or 7,244,464 square feet. The proposed leased area occupies only 1/1,288th of the subject property.

The temporary cell tower on wheels (COW) that was approved through 8-CUP-09 would be removed from the site once the proposed permanent lattice tower is operational. The site has been, and will continue to be, adequate in size and shape for the proposed use.

Finding: *The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, fences, parking, loading, landscaping, and other features required to adjust said use with land and uses in the neighborhood. **This criterion is met with conditions.***

Criterion #3: **The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.**

Applicant: The proposed access road meets the requirements for telecommunication facilities.

Staff Analysis: The site is accessed by a gravel road that starts at the north end of Orange Blossom in the Southview PUD. Orange Blossom connects to Westridge Drive. Westridge Drive intersects Hwy 140 West at the entrance to the Southview PUD. The existing road conditions meet the design requirements listed in CDO 14.978 for telecommunications facilities. The facility will continue to be unmanned and the proposal will not increase the level of traffic beyond one technician vehicular trip per month.

Driveway aprons help prevent dirt, mud and other debris from being pulled into the paved portion of the street. The applicant installed a compact gravel driveway apron where it connects to Orange Blossom Drive for a length of at least 25 feet and a width of 20 feet when the temporary COW was installed.

Finding: *The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use. **This criterion is met.***

Criterion #4: **The proposed use will have no adverse effect on abutting property or the permitted uses thereof.**

Applicant: The proposed leased area does not encroach upon any setbacks.

Staff Analysis: This proposal includes the installation of a 150 foot lattice tower, an 11 foot 5 inch by 20 foot pre-fabricated equipment shelter, an emergency generator, and a 1,000 gallon propane tank. The proposal also includes the erection of a 75 foot by 75 foot chain link fence. To minimize visual impact to adjacent properties; the color of the panels and concealments shall not be bright, shiny, or reflective.

Finding: *The proposed use will have no adverse effect on abutting property or the permitted uses thereof. **This criterion is met.***

Criterion #5: The adequate capacity of City facilities for water, sewer, paved access, electricity and storm drainage can and will be provided to and through the property.

Applicant: Access roads and parking areas serving only telecommunication facilities shall be served by the minimum necessary requirements conforming to CDO Section 14.978. Water, sewer, and storm drainage shall not apply as this is a WCF.

Staff Analysis: The proposed telecommunications site would be an unmanned facility that does not require water or sewer services. The existing adjacent Verizon Wireless communications site currently utilizes electricity and the new AT&T Mobility site will be powered by extending an underground power source from an existing electrical service. The new equipment shelter will access electricity from a new utility H-frame that connects to the buried power source. Adjacent properties within the Southview PUD are on private water, sewer and storm systems. There is no need for water, sewer or storm drainage at this time for the site.

Finding: *The adequate capacity of City facilities for water, sewer, paved access, electricity and storm drainage can and will be provided to and through the property. **This criterion is met.***

Criterion #6: The proposed use is similar in scale, bulk, coverage and is architecturally compatible with other uses in the area.

Applicant: The proposed location is in a remote area away from public access.

Staff Analysis: The proposed installation of the 75 foot by 75 foot leased telecommunications facility would not significantly impact the existing site, especially with the removal of the temporary COW and the existing Verizon tower. Besides the adjacent towers and antennas the remainder of the property in the immediate vicinity is undeveloped at this time. The applicant shall install panels and concealments that are not bright, shiny, or reflective. All properties within 250' of the subject property were notified of the proposed temporary facility. No comments were received from notified parties.

Finding: *The proposed use is similar in scale, bulk, coverage and is architecturally compatible with other uses in the area. **This criterion is met with conditions.***

Criterion #7: Provisions of public facilities and services to the site will not cause service delivery shortage to existing developments.

Applicant: Access to and from this site will be used for services and maintenance to the telecommunication facility.

Staff Analysis: The proposed site would be an unmanned facility that does not require water or sewer services. The site would utilize electricity from the existing adjacent power source.

Finding: *Provisions of public facilities and services to the site will not cause service delivery shortage to existing developments. **This criterion is met.***

Criterion #8: The conditions stated in the decision are deemed necessary to protect the public safety and general welfare.

Staff Analysis: The conditions stated in the decision are necessary to insure that all applicable laws and standards are being met by the proposal. These laws and standards are necessary to protect the public safety and general welfare.

Finding: *The conditions stated in the decision are deemed necessary to protect the public safety and general welfare. **This criterion is met.***

CONDITIONS

General conditions:

- 1) Prior to placement of the tower, the applicant shall file FAR form 7460 to ensure frequency & transmission power reviews are completed and not in conflict, and receive permission from the FAA. The applicant is responsible for the antennas meeting all Federal, State and local communications, aviation and environmental codes and requirements. The applicant shall provide notice to the FAA of the proposed addition of antennas. The applicant shall forward a copy of the FAA notice to the City of Klamath Falls Community Development Department.
- 2) The project shall not interfere with any Airport or FAA facility or conflict with FAA Guidelines. If any conflict or interference is determined, the applicant shall immediately correct the situation by removal, relocation, or other means.
- 3) The applicant shall adhere to the conditions of the Southview Development Site Construction Permit for Erosion & Sediment Control that coincides with the State of Oregon's DEQ 1200-C permit.
- 4) The applicant shall obtain a Development Permit from City Planning prior to commencing work on the site.
- 5) All contractors and subcontractors working at this site must be licensed to do business in the City of Klamath Falls.
- 6) The applicant shall obtain a building permit and a new certificate of occupancy prior to the new use moving in to the new building.
- 7) The applicant shall submit building permits, including a comprehensive code evaluation, drawings, calculations, and specifications for the project. All design documents shall be prepared and stamped by an Architect or Engineer licensed by the State of Oregon to practice as such. Building Permit application shall include site plan and development approvals from City of Klamath Falls Planning and Engineering departments. Any variations to the site plan require re-approval by the City of Klamath Falls prior to issuance of building permit(s).
 - No work shall commence prior to plan review and issuance of the appropriate building and trade permits.
- 8) The applicant shall install panels and concealments that are not bright, shiny, or reflective.

- 9) The applicant shall not construct the tower during Bald Eagle breeding season if the tower is determined to be within 660 feet of a nesting site.
- 10) The applicant shall submit to the Planning Division for review and approval a fence permit (no fee) prior to installation of any fence.
- 11) The applicant shall submit to the Planning Division for review and approval a sign permit (\$25.00) prior to installation of any sign, including the required facility identification sign.

Conditions regarding collocation:

- 12) Approval of this permanent 150 foot lattice tower being permitted by 2-CUP-11 means that the COW that was permitted by 8-CUP-09 shall be removed. A letter shall be received by City Planning by June 1, 2011 stating when the COW tower will be removed from the site. In no case shall the COW tower remain past the allotted extension of July 12, 2011 as approved on December 2, 2010. The 50 foot by 50 foot chain link fence and all related equipment shall also be removed.
- 13) Columbia Community Bank shall submit a letter stating the date when the existing Verizon tower is no longer in service and when the tower will be removed from the site. This letter shall be received by City Planning by June 1, 2011.

DECISION

After consideration of all staff, agency and citizen comments, and reviewing various data, the application is **approved** as presented based on the findings.

This **Conditional Use Permit** does meet the condition and scope of the City of Klamath Falls Comprehensive Plan, acknowledged by the Oregon State Land and Conservation Development Commission on May 31, 1984. In doing so, this **Conditional Use Permit** does address the appropriate policies encompassed in the Comprehensive Plan.

APPLICANTS ARE ADVISED THAT THIS DECISION IS FINAL AS OF THE DATE OF MAILING THIS DECISION (MARCH 8, 2011), UNLESS WRITTEN APPEAL AND A \$200 APPEAL FEE IS FILED WITH THE CITY PLANNING DEPARTMENT WITHIN 12 DAYS OF THE DATE OF MAILING.

DATED THIS 8TH DAY OF MARCH, 2011.

KELLY O'NEILL,
PLANNER

cc: Rick Bowman, City Code Enforcement Officer
Tom Del Santo, City Development Coordinator