

# WALLOWA COUNTY PLANNING COMMISSION

WALLOWA COUNTY COURTHOUSE

101 S. River Street, Room B-1

Enterprise, OR 97828

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IN THE MATTER OF THE REQUEST )  
FOR A CONDITIONAL USE PERMIT ) FINDINGS OF FACT, CONCLUSIONS,  
IN THE FORM OF A RADIO ) AND DECISION OF THE WALLOWA  
COMMUNICATIONS FACILITY ) COUNTY PLANNING COMMISSION  
(WIRELESS INTERNET TOWER) IN )  
THE TIMBER/GRAZING (T/G) ZONE )

**RE:** Wallowa Valley Networks, CUP#10-08, Wireless Internet Tower

The request was deemed to be complete on July 12<sup>th</sup>, 2010 and was properly advertised in the Wallowa County Chieftain on July 15<sup>th</sup>, 2010. It was noticed to appropriate property owners and interested parties on July 14<sup>th</sup>, 2010 and came before the Wallowa County Planning Commission for a public hearing on July 27<sup>st</sup>, 2010, with Decision on August 31<sup>st</sup>, 2010. The Planning Commission having reviewed the record, the materials introduced in the above-referenced hearing, and having heard and considered oral and written testimony in the above-referenced hearing, and being fully advised, makes the following findings of fact and decision.

01. **APPLICANT:** Moses Frederic, Wallowa Valley Networks, LLC
02. **OWNER:** Ronald C. Yanke Family Trust
03. **REQUEST:** To permit a radio communication facility. (Wireless Internet Tower)
04. **LOCATION:** Range 03S, Township 45E, tax lot 1500
05. **PARCEL CHARACTERISTICS:** Parcel is mostly untimbered and is mix zoned T/G and EFU. The tower is located on the portion of the parcel zoned T/G.
06. **REVIEW CRITERIA:** Article 5, Public Hearing Review, Sections 5.025 and 5.035; Article 9, Conditional Use Permit, Section 9.015 and Section 9.020; Article 16, T/G, Sections 16.010 and 16.020(07); Article 44, Moraine Protection, Section 44.035, Entire Goal 5 Area and other applicable zoning ordinances or goals of Wallowa County and or laws of the State of Oregon.

## SECTION 5.025, NOTICE OF PUBLIC HEARING:

01. Public Hearing Review requires notice of hearing be given to all owners of property lying within:

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- A. One hundred (100) feet of the exterior boundary of the subject property where the subject property is wholly or in part within an urban growth boundary;
- B. Two hundred and fifty (250) feet of the exterior boundary of the subject property where the subject property is outside an urban growth boundary and not within a farm or forest zone;
- C. Seven hundred fifty (750) feet of the exterior boundary of the subject property where the subject property is within a farm or forest zone.

The Director will provide notice to other parties should it be determined their interests may be affected by the proposal or they have other need for notice. The notice shall be mailed or otherwise delivered no later than ten days prior to the hearing date.

02. Notice of public hearing shall be placed in a newspaper of general circulation no later than 10 days prior to the hearing date nor greater than twenty 20 days prior to the hearing date.

03. Notice of public hearing shall be posted on the Wallowa County Courthouse Public Notice Board no later than 10 days nor greater than 20 days prior to the hearing date.

**FINDING 6.1:** The Planning Commission finds the public hearing was properly noticed to all property owners within 750 feet of the subject property, in a newspaper of general circulation and was posted on the Wallowa County Courthouse Public Notice Board prior to the hearing within the required time frame as stated above.

**SECTION 5.035, REVIEW PROCESS AND DECISION:**

01. The Public Hearing Review authority may impose such conditions of approval upon a permit as are deemed necessary to insure the use or development complies with the applicable standards and criteria.

**FINDING 6.2:** The Planning Commission has determined that the use or development, as proposed, complies with the applicable standards and criteria and is compatible with the zone. However, to ensure that the development continues to comply, the Commission has imposed Conditions of Approval.

**SECTION 9.015, REVIEW PROCEDURE:** Application for a Conditional Use Permit shall be subject to the public hearing review process.

**FINDING 6.3:** The Commission finds that this application was heard at a properly advertised public hearing as stated above.

**SECTION 9.020, REVIEW CRITERIA:** After taking into account location, size, design, and the general nature of the proposed use; the hearing body must determine that the development will comply with all of the following criteria to approve a Conditional Use Permit.

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01. The proposed use will be consistent with the purpose of [and is allowed conditionally in the zone in which the use proposed.
02. The use will not create excessive traffic congestion, noise, dust, glare from lights, or other conditions that may be hazardous.
03. The proposed use will not overburden the public services of water, sewer, storm drainage, electrical service, fire protection, and school.
04. The site is suitable to accommodate the proposed use, such as: topography, soils, and parcel size.
05. The proposed use will not interfere with uses permitted on adjacent parcels.
06. The application satisfies the pertinent criteria of Article 36, Salmon Habitat Restoration.

**FINDING 6.4:** The Commission finds, via testimony and other evidence presented, that the proposed wireless internet tower will be consistent with the purpose of [and is allowed conditionally in] the Timber Grazing zone, will not create excessive traffic congestion or noise, will not overburden public services, is suitable for the site, will not interfere with uses permitted on adjacent parcels, and does not need to be considered under Article 36.

07. In addition to the above and for uses within the Timber Grazing Zone, when the predominant use is determined to fall under Goal IV guidelines or the Timber Commercial Zone the following shall be found:
  - A. The proposed use will not force a significant change in or significantly increase the cost of accepted farming or forest practices on agriculture or forest lands.
  - B. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
  - C. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the landowner which recognizes the rights of adjacent and nearby landowners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in this ordinance.

**FINDING 6.5:** Testimony and other evidence presented indicated that the proposed facility will not force a significant change in or significantly increase the cost of accepted farming or forest practices, nor will it significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

**SECTION 16.010, PURPOSE:** The purpose of the Timber Grazing Zone is to provide areas for commercial farm and forest activities and permit the establishment of only those new

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uses which are compatible with agricultural and forest activities. The intention of the Timber Grazing Zone is to guarantee the preservation of the areas so classified for farm and forest use free from conflicting non-farm, non-forest use.

**FINDING 6.6:** The Planning Commission finds that the wireless internet tower, as proposed, will not interfere with and is compatible with existing agricultural and forest activities.

**SECTION 16.020, BUILDING AND ACTIVITIES PERMITTED CONDITIONALLY IN THE TIMBER GRAZING ZONE:** The following uses and activities and accessory buildings and uses are permitted subject to the provisions of Article 9, Conditional Use Permit.

[.....]

07. Television, microwave, and radio communication facilities and transmission towers.

[.....]

**FINDING 6.7:** Testimony has shown, and the Planning Commission finds that the proposed wireless internet tower will benefit the public in the form of high speed internet service, and will bring service into areas which currently do not have service, such as the south end of Wallowa Lake. Additionally, the applicant has investigated other ways of providing high speed service, and this tower represents the least intrusive way of providing service.

**SECTION 44.030, DEFINITION OF AREAS AND PROTECTION LEVELS BY AREA:**

There are four inventoried resources, each with a boundary that is different from the others, given protection by the Goal 5 Overlay: Wildlife Habitat, Scenic, Natural (geologic), and Historical/Cultural. Although the boundaries do not coincide, the protections which follow are interlocking in the sense that each protection helps to preserve not just one resource but several.

[ ..... ]

**A. ENTIRE GOAL V AREA**

**Protection of Historic, Cultural, and Archaeological Resources**

Development proposals for sites involving known or highly probable potential cultural resources including historic or prehistoric sites, buildings, objects, and properties related to American and Native American history, architecture, archaeology and culture, such as settler or Native American artifacts, must include a survey and assessment of the site and resources by authorities judged competent by the review authority, and a management plan, if indicated, responsive to the findings of the assessment, for historic/cultural resource protection.

**FINDING 6.8:** The Planning Commission finds that the proposal does not involve known or highly probable potential cultural resources including historic or prehistoric sites, buildings, objects, and properties related to American and Native American history.

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## **Wildlife Habitat**

The wildlife habitat resource zone map includes the entire Goal 5 area and is designated as a 3C protection area.

For the areas outside of those boundaries, the following rules apply (Exception--those areas described in 44.030 (C1) and (C2)):

1. In resource zones there shall be a 100 foot setback for residential use from streams for the purpose of preserving habitat for game birds, fur bearers, fish, and non-game wildlife.
2. There shall be a 100 foot setback for residential use from rookeries and wetland areas identified on the habitat map of the land use plan.

[ ..... ]

**FINDING 6.9:** The Planning Commission finds that it has considered the effect of this proposal on all Goal V resources consistent with this Article and has determined that the applicant has taken action to ensure that this development has achieved an overall minimum developmental impact on the resources.

### **07. CONCLUSION:**

All applicable criteria have been met, and the Planning Commission approves this application.

The Conditional Use Permit # 10-08 to operate a radio communication facility (Wireless internet tower) will be valid until the permitted use is discontinued for one full year.

## 08. CONDITIONS OF APPROVAL:

The Planning Commission finds that all of the following conditions are able to be met as imposed since the applicant is willing and the Commission finds reasonable evidence to support the conclusion that each is feasible.

1. Any change to the permitted structure will require prior review by the Planning Department, and, at the discretion of the Department, may be referred to Public Hearing Review.
2. In order to achieve a high degree of visual subordination, the tower and accessory building shall be painted a neutral color such as tan or brown, and there shall be no highly reflective surfaces.
3. For this permit to be in effect, the Yanke family must grant the necessary easements for the structures and access.

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**09. DECISION:**

Based upon the information submitted, the comments of interested parties and the findings, the review authority finds this application satisfies all review criteria and is hereby approved as presented. The vote on the motion is \_\_\_\_\_ in favor and \_\_\_\_\_ opposed with \_\_\_\_\_ abstaining.

August 31, 2010  
**DATE OF ACTION**

\_\_\_\_\_  
**GENE KOZOWSKI, CHAIRMAN**  
**WALLOWA COUNTY PLANNING COMMISSION**

This decision may be appealed to the Wallowa County Board of Commissioners pursuant to Article 7, Appeal. The provisions of Notice of Intent to Appeal accompanied by the appeal fee must be received by the Wallowa County Planning Department by 5:00 p.m. September 13, 2010.