



COUNTY COMMISSIONERS

Cathy Wolfe  
 District One  
 Sandra Romero  
 District Two  
 Bud Blake  
 District Three

**HEARING EXAMINER**

*Creating Solutions for Our Future*

**BEFORE THE HEARING EXAMINER  
 FOR THURSTON COUNTY**

In the Matter of the Application of	)	
	)	
	)	NO. 2015103436
	)	
<b>Verizon Wireless</b>	)	<b>Hunts Grade Wireless Communications</b>
	)	<b>Facility</b>
	)	
For a Special Use Permit	)	FINDINGS, CONCLUSIONS,
	)	AND DECISION
	)	

**SUMMARY OF DECISION**

The request for approval of a special use permit to construct a wireless communications facility including a 135-foot monopole and an enclosed structure for ground equipment at 8748 - 178<sup>th</sup> Avenue SW, Rochester, Washington is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request**

Verizon Wireless (Applicant) requested a special use permit to construct a new unstaffed wireless communications facility. The proposal includes a 135-foot monopole and a structure to house all ground equipment. The proposed site is located at 8748 178<sup>th</sup> Avenue SW, Rochester, Washington.

**Hearing Date**

The Thurston County Hearing Examiner conducted an open record public hearing on the request on November 23, 2015.

**Testimony**

At the open record public hearing, the following individuals presented testimony under oath:

- Leah Davis, Resource Stewardship Department Planning Staff
- Dawn Peebles, Environmental Health Department
- Sunny Ausink, Applicant Representative

Andrew Thatcher, Health Physicist, Applicant witness

**Exhibits**

At the open record public hearing, the following exhibits were admitted in the record:

EXHIBIT 1 Resource Stewardship Land Use & Environmental Section Report including the following attachments:

Attachment A Notice of Public Hearing, dated November 9, 2015

Attachment B Site Plan

Attachment C Master Application, dated April 22, 2015

Attachment D Special Use Permit Application, dated April 22, 2015

Attachment E Notice of Application, mailed June 8, 2015

Attachment F Memo from Sara Brallier, Thurston County Environmental Health Division, dated July 31, 2015

Attachment G Memo from Arthur Saint, Thurston County Public Works, dated November 10, 2015

Attachment H Comment letter from Washington Department of Ecology, dated June 26, 2015

Attachment I Third Party Review from Patrick André, André Consulting Inc., dated June 11, 2015

Attachment J SEPA Determination of Non-Significance, issued November 2, 2015

Attachment K Brice and Amber Anderson comment, dated June 13, 2015

Attachment L Balloon test aerial map and photos

EXHIBIT 2 Photos of posted notice

EXHIBIT 3 Public comment from Richard Edison, dated November 13, 2015

EXHIBIT 4 FAA Determination of No Hazard to Air Navigation, dated April 1, 2015

EXHIBIT 5 Noise Evaluation Report, dated December 9, 2014

- EXHIBIT 6 Non-Ionizing Electromagnetic Radiation (NIER) Report, dated December 30, 2014
- EXHIBIT 7 Full Size Plan Set
- EXHIBIT 8 Radio Frequency Study, Alternative Sites Analysis, Propagation Maps, dated March 31, 2015
- EXHIBIT 9 Applicant Narrative
- EXHIBIT 10 SEPA Checklist
- EXHIBIT 11 Habitat Assessment Report, dated November 20, 2015
- EXHIBIT 12 Radio Frequency Justification Letter Addendum, Licensed Engineer, dated November 20, 2015
- EXHIBIT 13 Signed Statement Addressing Colocation and Abandonment, last dated April 3, 2015
- EXHIBIT 14 FCC Licensure documentation
- EXHIBIT 15 Notice of Colocation to Other Carriers, Certified Mail Return Receipts, dated April 10, 2015
- EXHIBIT 16 Drainage Scoping Report, dated March 31, 2015
- EXHIBIT 17 Curriculum Vitae of Andrew Thatcher
- EXHIBIT 18 Andrew Thatcher Testimony
- EXHIBIT 19 Executive summary of article, "Research During Last 10 Yrs : Radiofrequency Electromagnetic Fields: Risk of Disease and Ill Health" from Swedish Council for Working Life and Social Research
- EXHIBIT 20 Executive summary of article, "HEALTH EFFECTS from Radio Frequency Electromagnetic Fields: Report of the independent Advisory Group on Non-Ionising (sic) Radiation" from Health Protection Agency
- EXHIBIT 21 Andrew Thatcher's Notes regarding Epidemiological Studies and Radio Frequency Base Stations
- EXHIBIT 22 Market Study, Integra Realty Resources, dated January 29, 2015

Based on the record developed at hearing, the Examiner enters the following findings and conclusions.

### FINDINGS

1. The Applicant requested a special use permit to construct a new unstaffed wireless communications facility (WCF) including a 135-foot monopole and a structure to house all ground equipment. The proposed project site is a 40-foot by 40-foot area to be leased from the rear of the parcel owned by Daniel Moyer at 8748 - 178<sup>th</sup> Avenue SW, Rochester, Washington.<sup>1</sup> *Exhibits 1, and 1.D.*
2. The 4.76-acre subject property is located in the Residential Limited Areas of More Intense Rural Development (LAMIRD) one dwelling unit per one acre (RL 1/1) zoning district in rural Thurston County. There are no critical areas on-site. The subject property is surrounded by Residential LAMIRD 1/1 zoning. *Exhibit 1.* The topography of the proposed lease area within the subject property is generally level, containing tall fir trees. There are no critical areas, wildlife refuges, or known nesting sites for protected birds within 1,000 feet of the site. Surrounding development is characterized by residential uses on lots of varying sizes. *Exhibits 1 and 9.*
3. The proposed facility is defined as an unstaffed wireless communications facility, which is allowed in the RL1/1 zoning district subject to special use permit approval. *Thurston County Code (TCC) 20.54, Table 1.*
4. The special use permit application was submitted April 22, 2015 and, all information required at TCC 20.33.050 and TCC 20.60.030 having been provided, was deemed complete on April 30, 2015. *Exhibits 1, 1.C, 1.D, and 1.E.*
5. Thurston County Code requires that new wireless communications facilities co-locate on an existing antenna support structure, if possible. *Thurston County Code (TCC) 20.33.070.* The Applicant submitted the required radio frequency (RF) study addressing the site selection process. The purpose of the new WCF is to provide improved wireless voice and data service to residents and businesses Mima Road and James Road, and Pecan Street SW and Moon Road SW. In order to serve the desired coverage area, the antennae must be placed at least 130 feet above the ground to clear trees, brick and wood walls, and other structures. The existing coverage gap in this area is depicted in the record on Plot C of Exhibit 8. Within the search area capable of providing coverage to the desired area, there are no existing towers, utility poles, or public facilities tall enough or capable of providing co-location. The nearest existing tower is 1.26 mile away and is only 27 feet tall. An alternative site was considered but not selected because of producing inferior coverage; it is necessary to site WCFs precisely to optimize site geometry to allow proper functioning of the technology. The proposed WCF location was selected because it would contribute to "seamless" signal handoff to neighboring

---

<sup>1</sup> The legal description of the subject property is a portion of Section 33, Township 16, North Range 3W; Quarter SE NW Plat BREWER LA TEN ACRE TRACTS LOT 32, W2 Doc. 008/043; also known as Tax Parcel no. 36700003200. *Exhibit 1.*

WCFs and provide favorable site geometry for federally mandated E911 location accuracy requirements. *Exhibits 8 and 9.*

6. The Applicant had the RF justification information and site selection analysis reviewed by a third party reviewer, who concurred that there are no existing facilities on which the proposed WCF could co-locate. *Exhibit 12.*
7. Proposed improvements include a 135-foot monopole with 12 panel antennas, nine remote radio head units, three OVP units, six outdoor equipment cabinets, and a generator inside a 40- by 40-foot enclosure behind a locked chain link fence with privacy slats. The equipment cabinets would be placed on an eight- by 20-foot concrete pad, and the generator would be placed on a second four- by 10-foot concrete pad. None of the ground mounted equipment would be taller than 10 feet in height. The proposed lease area is among mature fir trees behind the existing single-family residence. The monopole would be painted non-glare green. The site plan indicates that the tower would be set back from property lines as follows: more than 494 feet from 178th Avenue, in excess of 151 feet from the rear lot line, and more than 158 feet from both side lot lines. These setbacks equal or exceed 110% of proposed 135-foot tower height. A ten-foot landscape buffer would be provided outside the fenced enclosure. No lighting or outdoor storage is proposed. *Exhibits 1, 1.D, 7, and 9; Ausink Testimony.*
8. Access would be from 178<sup>th</sup> Avenue through a proposed new ingress/egress east of the property owner's driveway. After construction, the WCF would generate approximately one maintenance trip per month. Maintenance crews would enter the fenced enclosure through a 12-foot wide double swing gate. The maintenance vehicle would park on a gravel space proposed adjacent to the equipment enclosure. *Exhibits 1, 7, and 9; Ausink Testimony.*
9. The following factors mitigate potential impacts to surrounding properties. The subject property is almost five times larger than the minimum parcel size in the zone. The WCF would be located on the back of the parcel among mature evergreen trees, which would provide screening. The nearest off-site residence is approximately 300 feet away on Parcel #36700003203. Significant vegetation on the subject property and the adjacent parcel would screen the WCF from view. The site is not on a ridgeline, and the proposed tower would not affect views of any recognized landmark such as Puget Sound or Mount Rainier. The proposal calls for a low profile mounting platform that would reduce the silhouette of the facility. *Exhibits 1, 1.M, and 9; Ausink Testimony.*
10. To assess aesthetic impacts, the Applicant conducted a balloon test, in which a balloon was sent up to the height of the proposed WCF in order to visualize impacts to views from surrounding properties. Views of the balloon from 10 surrounding locations were photographed to depict the height and visibility of the WCF relative to surrounding vegetation and to show the degree of screening to be provided by existing trees. Also provided were photo simulations depicting the actual structure in place. The balloon is visible from 5 of the 10 photo points, and from the remaining points, the WCF would be screened by vegetation. *Exhibit 1.L; Ausink Testimony.*

11. The lease area would remain locked at all times and inaccessible to the public. No anti-climbing devices are proposed. *Exhibits 7 and 9.*
12. The Applicant also submitted a non-ionizing electromagnetic radiation (NIER) study, which calculated the projected maximum RF exposure to individuals resulting from the project. Noting that there are no other antennas in the area that could contribute to exposure, the NIER study reviewed radiation generated by the proposed antennas which would be 76 feet above ground level at their lowest point. Calculating the "worst case" for both uncontrolled (general public) and controlled (occupational) RF exposure, the report concluded that affected persons/properties would receive cumulative exposure of less than 1% of the maximum permissible exposure (MPE), or less than 1/100th of the level deemed as the maximum permissible. The report concluded that the facility would comply with FCC guidelines for human exposure. *Exhibit 6.*
13. The Applicant commissioned a noise study from a professional consultant. For a 24 hour facility, the maximum noise level allowed is 45 decibels during night time and 55 decibels during daytime. Based on the proposed equipment and distances to sound receiving properties, the noise consultant concluded that the WCF's six equipment cabinets and the 50kW generator would comply with these limits. *Exhibit 5.*
14. Consistent with the requirements of TCC 20.33.060, Planning Staff had had the Applicant's technical information reviewed by an independent third party reviewer to confirm compliance with FCC guidelines and standards. Third party review confirmed that the proposal would satisfy County Code requirements relating to RF exposure, acoustical noise, justification for the site, and proposed tower height. *Exhibit 1.I.*
15. The Federal Aviation Administration reviewed this site for a 135-foot monopole and determined that the structure would not exceed obstruction standards and would not be a hazard to air navigation. No marking or lighting were required. *Exhibit 4.*
16. The proposed tower and lease area have capacity to accommodate antennas and equipment for two additional cellular service providers. The Applicant provided verification that other WCF providers have been notified of the proposal and acknowledgement of its responsibility to remove the WCF if abandoned. The record contains information regarding Verizon Wireless FCC licensure. *Exhibits 1, 7, 13, 14, and 15.*
17. The Applicant submitted a professionally prepared habitat assessment which reviewed the subject property for the presence of priority species, including Townsend's Big-eared bat, Mazama pocket gopher, Wood duck, wolverine, and 15 locally important bird species, and well as priority habitats. The site was visited by US Fish and Wildlife Service biologists, who concluded that the proposal would not likely result in "take" of pocket gophers. No priority habitats were identified on-site, and no evidence of priority species was found. *Exhibit 11.*

18. The proposal was reviewed by Thurston County Environmental Health Division, which agency recommended approval subject to conditions requiring the following: no provisions for water or sanitary services (not proposed and so not reviewed); compliance with County noise standards; storage and secondary containment of the diesel generator on-site consistent with Article IV of the Sanitary Code and TCC17.15.520(c)(2); and prevention of spill of any hazardous material onto the ground or into ground or surface water. *Exhibit 1.F.*
19. Thurston County Public Works reviewed the proposal and determined that it is capable of compliance with applicable provisions of the Thurston County Road Standards and the Drainage Design and Erosion Control Manual. Public Works recommended approval. *Exhibit 1.G.*
20. Regarding any potential concern about health effects from radio frequency emissions, the Applicant offered the testimony and documentary information from professional health physicist Andrew Thatcher. Mr. Thatcher noted that even assuming future co-location by two additional carriers, exposures experienced outdoors off-site would be at most 0.3% and the maximum indoor exposure would be less than 0.01% of the FCC-established maximum permissible exposure (MPE) limit. He also provided excerpts from international reports and his own epidemiological review information, which he testified support the conclusion that the levels of RF exposure anticipated are considered safe for all people, including infants and children, even with 24 hour exposure. *Exhibits 17, 18, 19, 20, and 21; Thatcher Testimony.*
21. Washington State Department of Ecology submitted comments relating to proper procedures for handling any soils contaminated by hazardous material discovered during site development. *Exhibit 1.H.*
22. Pursuant to the State Environmental Policy Act (SEPA), Thurston County Resource Stewardship was designated lead agency for review of the project's environmental impacts. The SEPA responsible official reviewed the master and the special use permit applications, site plans (nine sheets), and comments from Thurston County Environmental Health, Thurston County Public Works, Washington State Department of Ecology, and the Nisqually Tribe. Upon review, the Responsible Official determined that the project would not result in probable, significant, adverse environmental impacts and issued a determination of non-significance on November 2, 2015, which was not appealed and became final. *Exhibit 1.J; Davis Testimony.*
23. Notice of application was mailed on June 8, 2015. *Exhibit 1.E.* Notice of the public hearing was posted on-site, sent to all owners of property within 2,600 feet of the site and others who requested notice, and published in The Olympian on November 13, 2015. *Exhibits 1, 1.A, and 1.E.*
24. The County received one public comment expressing concerns about negative impact on scenery, daily lives, and home values. The writer inquired whether there had been any needs analysis required and suggested that the WCF would be more appropriate along a railway or highway. *Exhibit 1.K.* One comment letter supporting the proposal was

received by the County prior to hearing. *Exhibit 3*. There was no public comment offered at hearing.

25. Planning Staff asserted that the proposal, as conditioned, would be consistent with the Thurston County Comprehensive Plan and the Thurston County Zoning Ordinance, citing specifically Goal I, objective A, Policy 14 of the Land Use chapter of the comprehensive Plan: This goal states that “special uses that may be permitted in the rural area should be constrained in size and scale so as to maintain rural character. The primary purpose of special uses should be to serve the rural area residents of Thurston County.” The proposal was designed to the minimum size necessary to successfully meet the Applicant's coverage objectives. While the location is in a residential zoning district, it is situated at the rear of a large parcel among tall trees. After hearing the testimony and argument offered at hearing, Planning Staff recommended approval of the WCF SUP subject to the conditions in the staff report. *Davis Testimony; Exhibit 1*.
26. The Applicant representative waived objection to the recommended conditions of approval, noting that the property owner had indicated willingness to provide a tree retention easement to ensure ongoing screening of the facility. *Ausink Testimony*. Planning Staff agreed that a tree retention easement would benefit surrounding properties and ensure screening. *Davis Testimony*.

## **CONCLUSIONS**

### **Jurisdiction**

The Hearing Examiner has jurisdiction to decide the special use permit applications pursuant to TCC 2.06.010, TCC 20.54.015(2), and Revised Code of Washington (RCW) 36.70.970.

### **Special Use Permit Criteria for Review**

The Hearing Examiner may approve an application for a special use permit only if the following general standards set forth in TCC 20.54.040 are satisfied:

1. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan and all applicable federal, state, regional, and Thurston County laws or plans.
2. Underlying Zoning District. The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.
3. Location. No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:
  - a. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions,



parking, public property or facilities, or other matters affecting the public health, safety and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though the adverse effects may occur.

- b. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

### **Wireless Communications Facilities Standards**

Pursuant to 20.33.080, the following standards apply to freestanding WCFs and remote freestanding WCFs/antenna support structures.

1. Evaluation of Alternative Sites. Prior to submission of an application for a WCF/antenna support structure, the applicant is encouraged to meet with residents of the search area for the proposed WCF/antenna support structure for the purpose of evaluating alternative sites and exploring the possibility that other technically feasible sites may be available that would be more acceptable to the community.
2. Siting.
  - a. Freestanding WCFs and other antenna support structures regulated by this chapter shall not be permitted in residential districts unless ...(not applicable);
  - b. WCFs and other antenna support structures shall be located, designed and screened, to the extent feasible, to blend with the immediate surroundings so as to reduce visual impacts.
    - i. Proposed WCFs/antenna support structures shall be located where their visual impact is least detrimental to views of recognized landmarks, such as, but not limited to, Puget Sound, Nisqually Valley, Mount Rainer, the Black Hills, and the Olympic Mountains. If the approval authority determines that the proposed location for the facility would have a significant detrimental impact on a view of a recognized landmark, she/he shall deny the proposal unless the applicant demonstrates that a less impacting site is not available.
    - ii. In order to demonstrate that a less impacting site is not available, applicants for WCF/antenna support structures impacting the views listed in subsection (2)(b)(i) of this section shall ... (not applicable).
    - iii. WCFs/antenna support structures shall be sited off ridgelines unless they are designed to blend in with the surrounding environment in such a manner that they would not have a significant visual impact, as determined by the approval authority, or the applicant demonstrates that no alternative location is available.
    - iv. In determining whether or not a WCF/antenna support structure will have a significant adverse visual impact on a view/location listed in subsections (2)(b)(i) and (2)(b)(iii) of this section ... (not applicable);
    - v. Applicants proposing uncamouflaged WCFs/antenna support structures in locations that cannot be at least partially screened by existing trees, topography, or structures must submit documentation as to why sites which would provide

screening potential are not available or technically feasible to provide adequate service...

- vi. Unless effectively camouflaged, as determined by the approval authority, WCFs/antenna support structures shall be located on a site to take maximum advantage of the screening afforded by any existing trees, topography, and structures in order to minimize their visibility from the surrounding area, consistent with other applicable regulations. Priority shall be given (in descending order) to minimizing visibility from existing dwellings, public rights-of-way, and public parks and open spaces.
  - vii. In residential and commercial districts, flush mounted antennas shall be used unless the applicant demonstrates that another mount is necessary.
  - c. WCFs and other antenna support structures shall be located so they do not narrow the sidewalk width below the county's minimum standard, create a hazardous situation for pedestrians, bicyclists or motorists, or interfere with utilities, as determined by the approval authority. (See TCC Title 13, Roads and Bridges).
  - d. WCFs and other antenna support structures shall be located, designed, and screened to maintain property values and neighborhood character.
  - e. WCFs and other antenna support structures shall be sited consistent with the provisions of the Thurston County Agricultural Uses and Lands Critical Areas Ordinance (Chapter 17.15 TCC), the Thurston County Critical Areas Ordinance (Title 24)...;
3. Setbacks.
- a. WCFs/antenna support structures, except those in rights-of-way, shall be set back from property lines a minimum of one hundred ten percent of the antenna support structure's height, including antennas. ...
4. Separation. WCFs/antenna support structures shall be separated from one another as follows:
- a. (not applicable)
  - b. Outside urban growth areas, freestanding WCFs/antenna support structures shall be a minimum of two thousand four hundred feet from another freestanding WCF/antenna support structure.
  - c. Separation distances shall be measured from antenna support structure to antenna support structure regardless of property lines and roadways. ...
- ...
5. Co-location. All freestanding and remote freestanding WCFs/antenna support structures shall be designed and constructed to fully accommodate at least two additional WCF providers, including an area for each co-locator's equipment near the base of the tower, each comparable in size to the area required by the applicant, unless the applicant demonstrates why such design is not feasible for technical or physical reasons (for example, because it would ruin the disguise of a camouflaged antenna support structure).

This requirement does not apply to antenna support structures in rights-of-way. The approval authority may require applicants to accommodate more than two co-locations, based on documented demand, consistent with the provisions of this chapter.

6. Maximum Height.
  - a. (not applicable)
  - b. Maximum height outside urban growth areas: one hundred eighty feet including antennas, except remote freestanding WCFs/antenna support structures which may be two hundred feet including antennas.
  
7. Screening/Camouflaging.
  - a. Color. WCFs/antenna support structures and antennas, with the exception of camouflaged and wooded antenna support structures, shall have a nonglare finish in a gray, blue, green or other color(s) appropriate to the background against which it would be primarily viewed (e.g. green to the tree line and gray above) as determined by the approval authority, unless a different color or finish is required by the FCC or FAA. ...
  - b. Pole Material. WCFs/antenna support structures in rights-of-way shall be limited to poles of the same design and appearance as the utility poles to which they are linked, except as required by the approval authority consistent with the Uniform Building Code.
  - c. Maintenance. The permittee shall maintain the approved WCF/antenna support structure in a condition that preserves its original appearance and any concealment or camouflage elements incorporated into the design, consistent with all applicable requirements. This includes repair or replacement of equipment, removal of rust and associated stains, removal and replacement of peeling paint that would be visible from adjoining rights-of-way or property, and maintenance of required landscaping and fencing.
  - d. Screening. WCFs/antenna support structures shall be located among or beside trees wherever possible.
    - i. If the site proposed to accommodate an antenna support structure is treed within fifty feet of the proposed antenna support structure's location ... (not applicable);
    - ii. If the site does not contain sufficient trees to provide effective screening, as determined by the approval authority, a minimum twenty-foot wide buffer around the perimeter of the WCF/antenna support structure location, excluding the access point, shall be planted with site-obscuring conifer trees. The trees shall be planted six feet on center in at least three offset rows. The trees shall be a minimum of six feet in height at the time of planting. Planting shall occur prior to the facilities becoming operational. The required trees shall be maintained in a green and growing state so long as the antenna support structure is on the site. Any tree within the buffer that dies or is removed shall be replaced during the next planting season with a conifer tree a minimum of six feet in height at the time of planting. This requirement shall not apply to WCFs/antenna support structures in rights-of-way.
    - iii. The approval authority may modify the screening requirements in subsections (7)(d)(i) and (ii) of this section to the extent existing structures on site, existing

vegetation along the parcel perimeter, or topography provide adequate screening. The approval authority may also modify or waive those requirements, as she/he deems appropriate, if the applicant camouflages the WCF/antenna support structure through a design that significantly mitigates its visual impact (for example, but not limited to, an antenna support structure designed to resemble a conifer tree, flag pole, clock tower, street light, or utility pole).

- iv. Approval of a setback pursuant to subsection (3)(d) of this section is contingent upon the applicant submitting to the approval authority an easement or other instrument approved by the Thurston County prosecuting attorney's office from the adjacent property owner that accommodates screening required pursuant to this subsection (7)(d).
  - e. Camouflaged WCFs/Antenna Support Structures. Camouflaged WCFs/antenna support structures shall be designed appropriate to the context, as determined by the approval authority, so they do not appear to be out of place. Camouflage proposals shall be modeled after design concepts approved by the department director or designee.
8. Public Safety.
- a. For freestanding WCFs/antenna support structures, a minimum six-foot high chain link fence with privacy slats shall be installed around the perimeter of the site for public safety and screening purposes. The fence and privacy slats shall be a nonreflective, deep green or other color that blends in with the surrounding environment, as determined by the approval authority. (A fence over six feet in height will require a building permit). Access to the tower shall be through a locked gate. The approval authority may authorize alternate methods of providing for public safety if a level of public safety and screening similar to that provided by the previously described fence is clearly demonstrated. These requirements shall not apply to camouflage WCFs and antenna support structures in rights-of-way and their associated equipment cabinets unless potentially dangerous equipment would be accessible by the public.
  - b. For remote freestanding WCFs/antenna support structures, adequate public safety measures shall be provided, as determined by the approval authority.
  - c. All freestanding and remote freestanding WCFs/antenna support structures, with the exception of replacement utility poles, shall be fitted with anti-climbing devices.
  - d. The county shall require remedial action by the responsible party if it determines that structural failure, ice accumulation, or other conditions pose a risk to public safety.
  - e. A device shall be installed on all WCFs and antenna support structures that automatically stops transmission from the antennas in the event the antenna support structure falls or shifts significantly out of alignment, unless the applicant demonstrates that it is not technically feasible to do so. This does not apply to remote freestanding WCFs/antenna support structures.
  - f. Foundations for replacement utility poles subject to this chapter shall require a commercial building permit.

9. **Parking/Access.** At least one parking space, plus adequate turnaround area, shall be provided. The access road, parking and turnaround areas shall have a paved, gravel or other all-weather surface. The access road must be a minimum of ten feet wide. These requirements shall not apply to WCFs/antenna support structures in rights-of-way and their associated equipment structures. Approval of WCFs/antenna support structures in rights-of-way shall be contingent upon demonstration by the applicant that parking space is available for maintenance vehicles that will not obstruct vehicle travel lanes, bike lanes, or sidewalks.
10. **Signals, Lights and Signs.** No signals, lights or signs shall be permitted on a WCF/antenna support structure unless required by the FCC or FAA (also see subsection (6)(d) of this section). If lighting is required, the county shall review the available lighting alternatives consistent with FAA requirements and approve a design that it determines would cause the least impact on surrounding views. However, in documented migratory bird flyways, preference shall be given to white strobe lights operating at the longest interval allowed per FAA requirements. WCFs/antenna support structures shall have a sign posted on the access gate with the WCF provider name and an emergency contact phone number on it. When the site is not fenced, the sign required above shall be placed in a location authorized by the approval authority. Any site security lighting shall be shielded to contain light and glare on site.
11. **Outdoor Storage.** Outdoor storage of motor vehicles or materials associated with the WCF/antenna support structure is prohibited outside of the fenced area installed pursuant to subsection (8) of this section.

TCC 20.33.100 - Design standards for ground mounted equipment structures.

1. **Maximum Height.** Ground mounted equipment structures shall not exceed ten feet in height.
2. **Location, Design, and Color.**
  - a. Ground mounted equipment cabinets/structures that would be visible from adjacent residential properties or public rights-of-way shall be partially buried, to the extent the seasonal high ground water level permits, of the smallest size possible and of a color, nonreflective material, texture, and architectural design so as to camouflage, conceal, or otherwise make the structure compatible with the setting and any immediately adjacent structure, as determined by the approval authority.
  - b. Equipment cabinets/shelters associated with WCFs/antenna support structures in rights-of-way or camouflaged WCFs/antenna support structures shall be buried or located, to the extent possible, to take advantage of the screening afforded by existing structures and vegetation. Ground mounted equipment cabinets/shelters shall be located outside of rights-of-way unless the approval authority determines that the proposed facilities, including associated screening, will not impede existing and planned road, bicycle, pedestrian, and utility facilities nor obstruct motorists' view of the travel lanes (also see TCC Section 20.07.070, Use Limitations on Corner Lots). The portion of the equipment structure/fencing that would be visible from adjacent

rights-of-way or parcels occupied or zoned and developable for residential or commercial use shall be screened with evergreen shrubs and/or trees, and/or berms (also see Section 20.33.080(7)). This vegetation shall be of a type, size, and spacing so that within three years of planting (along with any berm or other landscaping feature) it forms a continuous screen as tall as the equipment structure and any associated fencing.

- c. Equipment cabinets/structures must meet all building setbacks, screening and other standards of the underlying zoning district, except where they conflict with specific requirements of this chapter.

### **Conclusions Based on Findings**

1. **SUP:** Wireless communication facilities are listed as a permitted special use in the RL1/1 zoning district pursuant to TCC Chapter 20.54, Table 1. The subject property is substantially larger than the minimum lot size and also larger than many surrounding parcels, meaning it is well suited to accommodate the use. As proposed, the WCF would comply with all applicable zoning setbacks and development standards. The noise report submitted indicates that noise generated by the WCF would fall within the allowed limits. No lights are proposed or required by the FAA. The photo simulation study shows the WCF would result in minimal impacts to views from some surrounding properties; placement amongst mature trees and being painted green would reduce the visual impacts to the extent possible. The record demonstrates that the WCF would operate well within maximum permissible exposure limits for RF radiation established by the FCC and would continue to do so if two other carriers were to co-locate at the site. There is no evidence of detrimental impact to surrounding properties. The WCF would significantly improve cellular service coverage in the area surrounding the subject property and enhance emergency response capacity, resulting in a net benefit to all neighbors of the facility. As conditioned, the facility would not result in additional demand on or for public infrastructure or services. Negligible traffic would result from approval after construction. *Findings 2, 3, 5, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 25, and 26.*
2. **Wireless Communications Facilities Use-Specific Standards:** The Applicant's RF study and propagation maps demonstrate the gap in coverage that the proposal seeks to address; they also show that there are no existing WCFs in the search area upon which the instant facility could co-locate. In order to provide service to a residential area presently without reliable service, the WCF must be located in a residential zone. The 135-foot tower is within the allowed height range. The monopole would be set back a minimum of 110% of the pole's height from all site boundaries, consistent with the County's WCF provisions. The tower would be painted to blend in with the tall evergreen trees amongst which it is proposed to be placed. The equipment shelters would be screened from view by a chain link fence fitted with privacy slats and surrounded by a ten-foot landscaped buffer. The balloon test photographs show that from half of the surrounding vantage points, the tower would not be visible. No lighting or outdoor storage are proposed. There are no critical areas on the subject property. The nearest existing WCF is 1.26 miles away, exceeding the WCF separation standards. Other cellular service providers have been notified of the

co-location opportunity on the proposed pole and within the 40- by 40-foot lease area. Once per month maintenance vehicles would be the only new traffic to the site; they would park on a proposed gravel space next to the enclosure. All support equipment would be enclosed within the locked, fenced lease area. The monopole would not be climbable, due to the locked, gated fence. All support structures in the enclosure would be limited to ten feet in height. As proposed and conditioned, the facility would be consistent with the use-specific standards established for WCFs as well as with the intent of the County's WCF regulations.<sup>2</sup> *Findings 1, 2, 5, 6, 7, 9, 10, 11, 15, 25, and 26.*

### DECISION

Based on the preceding findings and conclusions, the requested special use permit to construct a wireless communications facility including a 135-foot monopole and a structure to hold ground equipment within the fenced lease area as proposed at 8748 - 178<sup>th</sup> Avenue SW, Rochester, Washington is **GRANTED** subject to the following conditions:

**The following Development Review-Public Works Division Code related conditions shall be met prior to final occupancy approval:**

1. Once the Applicant has received approval, a construction permit application shall be submitted along with a complete set of construction drawings and the final drainage and erosion control report to Thurston County Public Works-Development and Review Section for review and acceptance.
2. Prior to construction the applicant shall:
  - a. Pay outstanding construction review and inspection fees
  - b. Receive erosion and sediment control permit
  - c. Have the erosion and sediment control inspected and accepted
  - d. Receive a construction conference with county staff
3. Prior to receiving final approval from this department, the following items shall be required:
  - a. Completion of all roads and drainage facilities
  - b. Final inspection and completion of all punch list items

---

<sup>2</sup> Pursuant to TCC 20.33.010, the purposes of the County's Wireless Communications Facilities chapter are to: 1. Manage the location of WCFs, radio, television and automated meter reading antenna support structures, antennas, and equipment structures in the county by providing standards for their placement, design, construction, modification, and removal; 2. Accommodate WCFs, and radio, television and automated meter reading facilities operating consistent with Federal Communication Commission (FCC) guidance and meeting the standards of this chapter to serve the routine and emergency communications needs of county residents; 3. Protect residential, historic and other land uses, neighborhood character, aesthetic quality, property values, and the quality of life from potential adverse impacts of WCFs and other antenna support structures through careful siting, design, screening and camouflaging techniques, and by encouraging clustering of WCFs and other antenna support structures in remote and industrial areas; 4. Minimize the total number of antenna support structures by requiring, to the extent feasible, co-location of new facilities on freestanding and remote freestanding WCFs and other antenna support structures; 5. Protect public health and safety consistent with federal, state, and local regulations; and 6. Avoid potential damage to adjacent properties through sound engineering practices and the proper siting of WCFs and other antenna support structures.

- c. Record drawings submitted for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official
- d. Receive and accept Engineer's Construction inspection Report Form (Appendix I-C, Volume I of the Drainage Design and Erosion Control Manual)
- e. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual)
- f. Payment of any required permitting fees

**The following Environmental Health Code related conditions shall be met prior to final occupancy approval:**

4. The facility is to be unstaffed and therefore will not have any plumbing for domestic use, including sinks or restroom facilities.
5. The proposed project will not have any adverse impacts on the existing on-site sewage system or single-family well serving the residence located on the subject property.
6. The proposed project must comply with the noise standards of Thurston County Ordinance, Title 10 and Chapters 173-58 and 173-060 of the Washington Administrative Code (WAC).
7. The proposed diesel generator must meet all storage and secondary containment requirements of Article VI of the Thurston County Sanitary Code and the Thurston County Critical Areas Ordinance, Chapter 17.15.520 C(2).
8. Batteries and some lubricants are considered potentially hazardous materials. These items must be stored in equipment cabinets designed to contain any potential leaks or spill or hazardous materials.
9. Any future expansions of this facility may be subject to additional review and must meet all Thurston County Sanitary Code requirements for public water supply and waste water disposal.

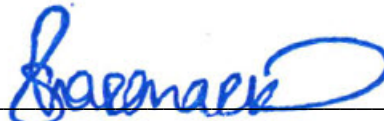
**The following Resource Stewardship Department conditions shall be met prior to final occupancy unless otherwise conditioned:**

10. The tower, including antennas, shall be no higher than 135 feet above grade.
11. There shall be no rotary converters, generating machinery, or other equipment that would cause substantial (above regulated standards at the property lines) odors, smoke, noise, electrical interference or similar disturbances.
12. A minimum six-foot high chain-link fence, topped with three strands of barbed wire shall be maintained around the perimeter of the site.



13. The tower shall be designed or fitted with appropriate anti-climbing devices to prevent unauthorized climbing of the tower.
14. The tower shall not contain hazard marking or lighting.
15. The Applicant shall notify the Resource Stewardship Department of any changes in ownership and any significant changes in technology or operation affecting the facility within 60 days of the change. The current owner of the tower must provide all documents containing conditions of approval to each new owner or lessee.
16. The ground equipment building shall be no taller than 10 feet from finished grade.
17. All development on the site shall be in substantial compliance with the approved site plan. Any expansion or alteration of this use beyond that initially approved by the Hearing Examiner will require approval of a new or amended Special Use Permit. The Development Services Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
18. Prior to building permit issuance, the Applicant shall provide evidence to Resource Stewardship of a legally recorded tree retention easement that at a minimum runs with the land and prohibits removal of the mature trees screening the WCF absent arborist-verified hazards. The specific requirements and wording of the tree retention easement shall be subject to approval from Resource Stewardship.

**DECIDED** December 9, 2015.



---

Sharon A. Rice  
Thurston County Hearing Examiner



**THURSTON COUNTY**  
**PROCEDURE FOR RECONSIDERATION AND APPEAL**  
**OF HEARING EXAMINER DECISION TO THE BOARD**

**NOTE:** THERE MAY BE NO EX PARTE (ONE-SIDED) CONTACT OUTSIDE A PUBLIC HEARING WITH EITHER THE HEARING EXAMINER OR WITH THE BOARD OF THURSTON COUNTY COMMISSIONERS ON APPEALS (Thurston County Code, Section 2.06.030).

If you do not agree with the decision of the Hearing Examiner, there are two (2) ways to seek review of the decision. They are described in A and B below. Unless reconsidered or appealed, decisions of the Hearing Examiner become final on the 15th day after the date of the decision.\* The Hearing Examiner renders decisions within five (5) working days following a Request for Reconsideration unless a longer period is mutually agreed to by the Hearing Examiner, applicant, and requester.

The decision of the Hearing Examiner on an appeal of a SEPA threshold determination for a project action is final. The Hearing Examiner shall not entertain motions for reconsideration for such decisions. The decision of the Hearing Examiner regarding a SEPA threshold determination may only be appealed to Superior Court in conjunction with an appeal of the underlying action in accordance with RCW 43.21C.075 and TCC 17.09.160. TCC 17.09.160(K).

**A. RECONSIDERATION BY THE HEARING EXAMINER (Not permitted for a decision on a SEPA threshold determination)**

1. Any aggrieved person or agency that disagrees with the decision of the Examiner may request Reconsideration. All Reconsideration requests must include a legal citation and reason for the request. The Examiner shall have the discretion to either deny the motion without comment or to provide additional Findings and Conclusions based on the record.
2. Written Request for Reconsideration and the appropriate fee must be filed with the Resource Stewardship Department **within ten (10) days of the written decision**. The form is provided for this purpose on the opposite side of this notification.

**B. APPEAL TO THE BOARD OF THURSTON COUNTY COMMISSIONERS (Not permitted for a decision on a SEPA threshold determination for a project action)**

1. Appeals may be filed by any aggrieved person or agency directly affected by the Examiner's decision. The form is provided for this purpose on the opposite side of this notification.
2. Written notice of Appeal and the appropriate fee must be filed with the Resource Stewardship Department **within fourteen (14) days of the date of the Examiner's written decision**. The form is provided for this purpose on the opposite side of this notification.
3. An Appeal filed within the specified time period will stay the effective date of the Examiner's decision until it is adjudicated by the Board of Thurston County Commissioners or is withdrawn.
4. The notice of Appeal shall concisely specify the error or issue which the Board is asked to consider on Appeal, and shall cite by reference to section, paragraph and page, the provisions of law which are alleged to have been violated. The Board need not consider issues, which are not so identified. A written memorandum that the appellant may wish considered by the Board may accompany the notice. The memorandum shall not include the presentation of new evidence and shall be based only upon facts presented to the Examiner.
5. Notices of the Appeal hearing will be mailed to all parties of record who legibly provided a mailing address. This would include all persons who (a) gave oral or written comments to the Examiner or (b) listed their name as a person wishing to receive a copy of the decision on a sign-up sheet made available during the Examiner's hearing.
6. Unless all parties of record are given notice of a trip by the Board of Thurston County Commissioners to view the subject site, no one other than County staff may accompany the Board members during the site visit.

**C. STANDING** All Reconsideration and Appeal requests must clearly state why the appellant is an "aggrieved" party and demonstrate that standing in the Reconsideration or Appeal should be granted.

**D. FILING FEES AND DEADLINE** If you wish to file a Request for Reconsideration or Appeal of this determination, please do so in writing on the back of this form, accompanied by a nonrefundable fee of **\$651.00** for a Request for Reconsideration or **\$866.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Permit Assistance Center on the second floor of Building #1 in the Thurston County Courthouse complex no later than 4:00 p.m. per the requirements specified in A2 and B2 above. **Postmarks are not acceptable.** If your application fee and completed application form is not timely filed, you will be unable to request Reconsideration or Appeal this determination. The deadline will not be extended.

\* Shoreline Permit decisions are not final until a 21-day appeal period to the state has elapsed following the date the County decision becomes final.



Project No. \_\_\_\_\_  
Appeal Sequence No.: \_\_\_\_\_

Check here for: RECONSIDERATION OF HEARING EXAMINER DECISION

THE APPELLANT, after review of the terms and conditions of the Hearing Examiner's decision hereby requests that the Hearing Examiner take the following information into consideration and further review under the provisions of Chapter 2.06.060 of the Thurston County Code:

(If more space is required, please attach additional sheet.)

Check here for: APPEAL OF HEARING EXAMINER DECISION

TO THE BOARD OF THURSTON COUNTY COMMISSIONERS COMES NOW \_\_\_\_\_  
on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_, as an APPELLANT in the matter of a Hearing Examiner's decision rendered on \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ relating to \_\_\_\_\_

THE APPELLANT, after review and consideration of the reasons given by the Hearing Examiner for his decision, does now, under the provisions of Chapter 2.06.070 of the Thurston County Code, give written notice of APPEAL to the Board of Thurston County Commissioners of said decision and alleges the following errors in said Hearing Examiner decision:

Specific section, paragraph and page of regulation allegedly interpreted erroneously by Hearing Examiner:

- 1. Zoning Ordinance \_\_\_\_\_
- 2. Platting and Subdivision Ordinance \_\_\_\_\_
- 3. Comprehensive Plan \_\_\_\_\_
- 4. Critical Areas Ordinance \_\_\_\_\_
- 5. Shoreline Master Program \_\_\_\_\_
- 6. Other: \_\_\_\_\_

(If more space is required, please attach additional sheet.)

AND FURTHERMORE, requests that the Board of Thurston County Commissioners, having responsibility for final review of such decisions will upon review of the record of the matters and the allegations contained in this appeal, find in favor of the appellant and reverse the Hearing Examiner decision.

**STANDING**

On a separate sheet, explain why the appellant should be considered an aggrieved party and why standing should be granted to the appellant. This is required for both Reconsiderations and Appeals.

Signature required for both Reconsideration and Appeal Requests

APPELLANT NAME PRINTED \_\_\_\_\_

SIGNATURE OF APPELLANT \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Please do not write below - for Staff Use Only:

Fee of  \$652.00 for Reconsideration or \$870.00 for Appeal. Received (check box): Initial \_\_\_\_\_ Receipt No. \_\_\_\_\_

Filed with the Resource Stewardship Department this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.