



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. 2015104198
)	
Verizon Wireless)	Delphi Wireless Communications
)	Facility
)	
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 communication facility including a 150-foot monopole and an enclosed structure for ground equipment as proposed at the Delphi Golf Course is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Verizon Wireless (Applicant) requested a special use permit to construct a new, unstaffed wireless communication facility. The proposal includes a 150-foot monopole and a structure to house all ground equipment. The proposed site is located at 6340 Neylon Drive SW in Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on September 21, 2015. At the conclusion of the hearing, the record was held open through September 28th to allow the Applicant an opportunity to respond (in writing) to the lengthy public comments submitted at hearing. On that date, the Applicant also submitted a request to revise recommended conditions of approval. The Examiner requested a response from Planning Staff, which was submitted September 30, 2015 and is also admitted.

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
Angela Raymond, Applicant Representative
Bob Dickson, Applicant Representative
Mike Higginbotham
Scott Madison
Chris Pettersen
Christy White
Sue Danver
Ormezinda Johns

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

Attachment B Site Plan, dated May 27, 2015 (8 pages)

Attachment C Master Application, dated May 27, 2015

Attachment D Special Use Permit Application, dated May 27, 2015

Attachment E Notice of Application

Attachment F Memo from Dawn Peebles, Environmental Health, dated July 31, 2015

Attachment G Memo from Arthur Saint, TC Public Works, dated July 1, 2015

Attachment H Comment letter from Washington Department of Ecology, dated July 1, 2015

Attachment I Third Party Review from Patrick André, dated July 30, 2015

Attachment J MDNS issued August 6, 2016

Attachment K Citizen Comment letters (four)

- Exhibit 2 Copies of photos of posted notice of hearing, taken by Staff
- Exhibit 3 Public Comments
- a) Justin George comments, dated September 18, 2015
 - b) Bob Card comments, dated September 17, 2015
 - c) Nancy Mills comments, dated September 17, 2015
 - d) Dianna Flannery comments, dated September 17, 2015
 - e) Christopher Stanley on behalf of Delphi Country Club Homeowners Association comments, dated September 18, 2015
 - f) Mark and Melody Anderson comments, dated September 9, 2015
 - g) Tyler Blaylock comments, dated September 18, 2015
 - h) Trev Atchinson comments, dated September 18, 2015
 - i) truongca@plu.edu comments, dated September 18, 2015
 - j) Haylee Bratcher comments, dated September 18, 2015
 - k) Terr Hope comments, dated September 18, 2015
 - l) Renee Parker comments, dated September 18, 2015
 - m) Nikki Leitzke comments, dated September 18, 2015
 - n) Danielle Taylor comments, dated September 18, 2015
 - o) Tiah Kimbrough comments, dated September 18, 2015
 - p) Drew Thomas comments, dated September 18, 2015
 - q) Sean Rotter comments, dated September 18, 2015
 - r) Terry and Jan Diederff comments, dated September 18, 2015
 - s) deviwi@comcast.net comments, dated September 18, 2015
 - t) Lisa Thomas comments, dated September 18, 2015
- Exhibit 4 Balloon Test Report
- Exhibit 5 Proposed Site Coverage Report, dated May 11, 2015
- Exhibit 6 Thurston County Nonresidential Building Permits # 12114868 and 05-111439
- Exhibit 7 Non-Ionizing Electromagnetic Exposure Analysis, dated April 30, 2015
- Exhibit 8 Christy White comments, dated September 21, 2015, with attachments:
- a) Thurston County Permit Assistance Center, Master Application, Parcel # 4402000700
 - b) SEPA application for this project # 2015104198
 - c) Exhibit 10 limited review wetland map
 - d) Project Zoning Drawings per the project file
 - e) Exhibit 3 photo simulation of the project
- Exhibit 9 Applicant's response to Christy White comments, dated September 28, 2015

Exhibit 10 Applicant's post-hearing request for alterations to conditions, dated September 28, 2015

Exhibit 11 Resource Stewardship response to Applicant's post-hearing submittals, dated September 30, 2015

Based upon 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 communication facility (WCF) including a 150-foot monopole and housing structure for all ground equipment. The proposed site of the facility is a 40- by 4-foot area to be leased from the Delphi Golf Course at 6340 Neylon Drive SW in Olympia, Washington.¹ *Exhibits 1, 1.A, and 1.D.*
2. The 29.59-acre subject property is located in the Residential Limited Areas of More Intense Rural Development (LAMIRD), one dwelling unit per two acres (RL 1/2) zoning district in rural Thurston County. There are no critical areas on-site. The subject property is surrounded by Rural Residential Resource RRR1/5-zoned parcels, abutting Residential LAMIRD 1/1 zoning to the west. *Exhibit 1.* The topography of the proposed facility location is generally level containing tall fir trees. *Exhibit 1.* Surrounding development is characterized by rural residential development on lots of varying sizes. *Exhibit 1; Site visit; Public Comment.*
3. The proposed facility is defined as an unstaffed wireless communication facility, which is allowed in the RL1/2 zoning district subject to special use permit approval. *Thurston County Code (TCC) 20.54, Table 1.*
4. The special use permit application was submitted May 27, 2015 and, all information required at TCC 20.33.050 and TCC 20.60.030 having been provided, was deemed complete on June 6, 2015. *Exhibits 1, 1.C, 1.D, and 1.E.*
5. Proposed improvements include a 150-foot monopole with 16 panel antennas inside a 40- by 40-foot fenced enclosure with a locked gate. Associated equipment, including a 50 kW diesel generator, would be located inside a proposed 11.5- by 25.5-foot structure designed to resemble a garage consistent with golf course architecture. The proposal includes a utility easement running from Alpine Drive to the leased area. The WCF would be sited among fir trees behind the clubhouse in a location currently accessed by golf cart. The facility as a whole was designed to accommodate two future carriers who would co-locate on the facility. The monopole would be located among a cluster of mature trees with an average height of 135 feet and painted green to blend with the

¹ The legal description of the subject property is a portion of Section 02, Township 17, Range 23W Plat DELPHI COUNTRY CLUB BLA000622TC TR B Doc. 3302444; also known as Tax Parcel no. 44020007700. *Exhibit 1.*

- environment. The monopole is proposed to be built so that climbing is not possible. No aviation warning light, signals, other lights, signage, or storage are proposed. Buffered by large setbacks and existing vegetation, the WCF would be screened as much as possible from the surrounding residential uses. *Exhibits 1 and 1.D; Raymond Testimony.*
6. Site access is via Neylon Drive through the golf course parking lot. After construction, the WCF would generate approximately one maintenance trip per month. The maintenance vehicle would park in the golf course parking lot. *Exhibit 1.*
 7. The Applicant submitted the required radio frequency (RF) study addressing the site selection process. The purpose of the new wireless communication facility is to provide improved wireless voice and data service to residents and businesses in the area. The specific location was selected because it would contribute to "seamless" signal handoff to neighboring WCFs and provide favorable site geometry for federally mandated E911 location accuracy requirements. The site would allow coverage to some areas west of Black Lake that currently have no coverage. Coverage resulting from the proposed facility would extend between Capitol Forest Drive and 81 Avenue SW and between Lakeside Street and Northhill Loop SW. The RF study indicated that the radio frequency used by Verizon is negatively affected by trees, buildings, topography, and other obstacles. Because of the height of trees in the vicinity and the desired coverage area, 150 feet is the minimum tower height possible and 16 panel arrays are required. The WCF in the proposed location would provide reliable indoor service for a significant area surrounding the project and reliable in-car or outside service for an even greater area surrounding the tower. *Exhibit 5.*
 8. 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 the Verizon antennas would be mounted at the top of the 150-foot pole, the study indicated that wireless panel and microwave antennas are highly directional, projecting the majority of RF energy horizontally, which at the proposed site would be well above all nearby accessible areas. Ambient RF exposure conditions at the site and all surrounding areas were calculated based on maximum power density and maximum exposure projected to exist in affected areas. Calculating the "worst case" for uncontrolled (general public) 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. Because of this, the report further concluded that together with any future co-located carriers, the proposed WCF would not generate significant RF exposure condition risks to any occupancy, habitable area, or publicly accessible area. *Exhibit 7.*
 9. Pursuant to 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. The County's reviewer confirmed that the proposal would comply with FCC requirements. *Exhibit 1.1.*

10. The Applicant commissioned a third-party noise study from a professional consultant. Noise generating equipment proposed with the project includes a 30kW emergency generator and a split-system air cooling unit. Both would be housed within the proposed structure inside the fenced enclosure; however, an exterior condenser unit would be placed on the outside north wall of the structure. Using manufacturer information for sound levels generated by the noise-generating equipment, the noise consultant measured anticipated sound levels at the nearest receiving property lines, consistent with the process established in the Washington Administrative Code as adopted by the Thurston County Code. With both the generator and the condensing unit operating simultaneously, sound levels experienced at all receiving property boundaries were well below the day and night time limits established by code. *Exhibit 6.*
11. To address aesthetic impacts, the Applicant conducted a balloon test, in which a balloon was sent up to the height of the proposed tower so that it can be determined what impacts to views from surrounding properties would occur. Views of the balloon from 11 surrounding locations were photographed to depict the height and visibility of the WCF relative to surrounding vegetation and what degree of screening would be provided by existing trees. The balloon is visible from some of the 11 photo points, but the majority of the WCF would be screened by vegetation. *Exhibit 4.*
12. The nearest existing WCF monopole is approximately five miles away. It is not possible for the Applicant to co-locate onto an existing WCF to meet its service objectives. The minimum distance the proposed monopole would be set back from any site boundary of the underlying property is 165 feet. *Exhibits 1, 1.B, and 5.*
13. According to Staff's review of the Applicant's submittals, the Federal Aviation Administration reviewed this site for a 150-foot cell tower and has determined that no warning light is required. *Exhibit 1.*
14. The application demonstrates that 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. *Exhibit 1.*
15. 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; Peebles Testimony.*
16. 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.*

17. Washington State Department of Ecology submitted comments relating to proper procedures for handling any contamination by hazardous material discovered during site development. *Exhibit 1.H.*
18. 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 impact and issued a determination of non-significance on August 6, 2015, which was not appealed and became final. *Exhibit 1.J; Davis Testimony.*
19. Notice of application was mailed on June 15, 2015. *Exhibit 1.E.* Notice of the public hearing was posted on-site on September 9, 2015. Notice of hearing was sent to all property owners within 2,600 feet of the site and others who requested notice and published in The Olympian on September 11, 2015. *Exhibits 1, 1.A, and 1.E.*
20. Public comments submitted prior to the hearing largely supported the proposal noting the existing lack of cell phone service in the vicinity of the project. Concerns expressed included light pollution and potential human health impacts from the radiation emitted by the use. *Exhibit 1.K.*
21. Prior to the hearing, the County received numerous written comments in support of the proposal. *Exhibit 3.* At hearing, several members of the public testified with the following opinions:

One neighbor across the road from the site expressed concern about impacts to views from his property and his property values. While he expressed understanding of the need for improved service, he objected to the proposed location. *Higginbotham Testimony.*

One professional paramedic spoke in favor, noting that the proposal would improve emergency services to the area west of Black Lake and would allow people to save money by canceling land lines. *Madison Testimony.*

One neighbor spoke in favor due to improved phone service and increased revenues for golf course. *Pettersen Testimony.*

One member of the public submitted studies and expressed concerns about the effects of wireless facilities on human and environmental health. She noted there

is a bus stop nearby and that many species, including the spotted owl, share Delphi Valley with people, asserting that impacts on wildlife will be enormous, in part because cell towers catch on fire and can destroy habitat. She raised concerns about the adequacy of notice under SEPA and the adequacy the SEPA environmental checklist to address the significant concerns, including disclosure of birds and animals or any threatened or endangered species on or near the site, or if the site is part of a migration route. She argued that the use is not appropriate in the proposed location and requested that an environmental impact study be required. She also requested 90 additional days for public comment, asserting that the public notice and the comment period had been inadequate. *White Testimony.*

One neighboring land owner who conceded she lives more than 2,600 feet away noted she did not receive mailed notice and only learned about the proposal from posted notice. She testified that she is uniquely sensitive to radio waves and that her residence will be within an area of "yellow coverage" by the Applicant's RF study [which color indicates projected reliable outdoor and in-car service if approved]. She expressed concern that with co-location, the RF emitted by the facility would increase and objected to the information supplied by Planning Staff that indicated co-location occurs via administrative/non-public-hearing land use processes. She testified that lights on cell towers attract migrating birds, which run into guy wires and die. She submitted the position that the use would not be consistent with the character of the Delphi Valley, which is the head of a conservation area that goes down into a state forest and wildlife refuge. *Danver Testimony.*

One neighbor generally in favor of cell tower, who noted she currently has to stand outside her home to have cell coverage, questioned what range the project would cover and asked if the tower could be positioned to provide coverage through "Alpine Hills and down through the valleys". *Johns Testimony.*

22. In response to the testimony regarding health effects from radio frequency emissions, the location of the proposed facility, environmental concerns, and pollution from the light and noise generated from the proposed facility, the Applicant offered the following information. Pursuant to the Federal Telecommunications Act of 1996², the County is preempted from regulating wireless communication facilities based on the environmental effects of radio frequency (RF) emissions to the extent such facilities comply with the Federal Communications Commission's (FCC) regulations. The proposal would comply with FCC regulations concerning radio frequency emissions, as demonstrated by the Non-Ionizing Electromagnetic Exposure Analysis and Engineering Certification (NIER study) and confirmed by Thurston County's third party review. Regarding concerns that the proposal is not to be located within a remote or industrial area, the Applicant representative noted the facility is located in a zone that allows WCFs as a special use.

² 47 U.S.C. § 332(c)(7)(B)(iv).

The facility was designed to protect the residential and neighborhood character by being located in a cluster of mature trees that have an average height of 135 feet, painted green to blend in with the natural environment, and set back at least 165 feet from all site boundaries. Regarding impacts on birds and bird migration routes, they noted that migrating bird studies were not requested by state or county reviewing agencies. Regarding light and noise pollution, the Applicant noted the proposal does not include lighting and noise was studied and found to be within allowed limits. In conclusion, Applicant representatives noted that the proposal would comport with all code requirements and requested approval. *Exhibit 9; Raymond Testimony.*

23. Regarding SEPA review, Staff noted that the environmental checklist submitted adequately disclosed potential environmental impacts, a DNS was issued on August 6, 2015, that no comments were received during the comment period, and the DNS is now final. Regarding notice generally, the Code requires notice to be sent to parcels within 2,600 feet are notified by mail, and this notice was provided. Regarding co-location, the Code does not require further public process. All applications should be available online. The current project involves no guy wires and no lighting. Regarding other potential locations for a tower, Staff noted that one can't "put tower in area b and have coverage in area a" and that there is a federal mandate to provide emergency cell coverage. Regarding lack of wildlife studies, Staff noted that if there are known critical areas close enough to the subject property, biological studies can be required by the CAO, but this property did not trigger such studies. *Davis Testimony.*
24. At the time of application, the fence proposed to surround the lease area was a six-foot chain link fence with privacy slats topped with three strands of barbed wire. Planning Staff recommended condition of approval number 3, requiring the fence to be built to this design. *Exhibit 1.* After the hearing, the Applicant submitted a request to modify condition 3 to require a minimum eight-foot high wooden fence with a locking gate, no gaps along the fence, and the framing facing inside around the perimeter of the lease area. The Applicant indicated that having framing inside would discourage climbing and protect public safety and asserted that the proposed revised wooden fence would provide the same level of public safety and screening as the previously proposed chain link fence and would better screen the facility and blend in with the natural environment. The Applicant also requested that recommended condition 7 be amended to allow the proposed equipment structure to be a stick built structure no taller than 10 feet from finished grade with the building roof pitch not exceeding 11 feet six inches. The reason stated for the request was to allow space for cable management/distribution above the equipment and to allow room to work between the trays and the ceiling, which would not be possible with a maximum height of 10 feet. *Exhibit 10.*
25. As requested by the Examiner, Planning Staff responded to the Applicant's post-hearing request for modification to two conditions of approval as recommended by Staff on the record prior to and at the hearing. Staff's response states:

TCC 24.33.080(8)(a) states that the approval authority may authorize alternate methods—to a chain link fence— of providing for public safety. Staff agrees that an 8-foot tall wooden fence, as described, would provide adequate safety. Regarding the conditional request for ground equipment, staff finds that TCC 20.33.100 does not allow for the approval authority to make exceptions to the maximum height of ground equipment. If more than 10 feet in height is required for practical reasons, the ground equipment structure can be excavated below ground to the necessary depth.

Exhibit 11.

26. 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 for the provision of wireless communication coverage to surrounding rural area residents. While the location is in a residential zoning district, but the subject property is developed with a golf course open to the public and does not contain residential uses. 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.*

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.³ These requirements shall not apply to camouflage WCFs and antenna support structures in rights-of-way and their

³ Emphasis added.

- 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 RL1/2 zoning district pursuant to TCC Chapter 20.54, Table 1. As proposed, the WCF would comply with all applicable zoning setbacks and development standards. The proposed backup emergency generator would be located inside the equipment building. 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 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. The submitted NIER study 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. Because this is true, the County has no ability to regulate the wireless facility based on concerns regarding public health impacts due to applicable federal law. *Findings 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 18, 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 densely populated area presently without reliable service, the WCF must be located in the residentially zoned area. The subject property is developed with a commercial recreational use and contains no residential uses. The 150-foot tower would be 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 is planned to be painted an inconspicuous color and would be placed among tall evergreen trees. The equipment shelter is designed to match the surrounding architecture. The balloon test photographs show that from most points, the tower would be slightly if at all visible. No lighting, guy wires, signage, or storage are proposed. There are no critical areas on the subject property. The nearest existing WCF is nearly five miles away, satisfying 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 in the existing parking lot. All support equipment would be located inside a wood structure designed to be similar in appearance to existing buildings at the golf course, enclosed within the locked, fenced lease area. The monopole would not be climbable. The ice bridge is proposed to be ten feet high. 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.⁴ *Findings 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, and 23.*

⁴ 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.

3. Regarding the Applicant's requests for modification to recommended conditions 3 and 7, the Code expressly gives discretion to the approval authority to vary the design of the fence enclosing the WCF at TCC 20.33.080(8)(a) if a level of public safety and screening similar to that provided by the by the six-foot chain link fence described in the code is demonstrated. An eight-foot fence with interior framing would be difficult to climb and would provide superior visual screening over a chain link fence with slats. Planning Staff agreed that the eight-foot fence would provide similar screening and public safety. There were no concerns expressed in writing or testimony about the design of the fence around the lease area. An eight-foot wood fence with interior framing could be allowed in place of the six-foot chain link fence with slats subject to building permit requirements. However, the code does not provide any discretion relating to the height of the equipment structure. The requested height modification would be required to be considered through the variance process. *Findings 5, 24, and 25; TCC 20.33.100(1).*
4. Notice was provided consistent with Thurston County Code requirements. *Findings 4, 19, and 23.*

DECISION

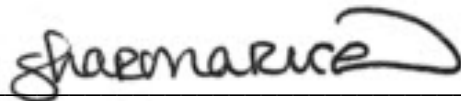
Based on the preceding findings and conclusions, the requested special use permit to construct a wireless communication facility including a 150-foot monopole and a structure to hold ground equipment within the fenced lease area as proposed at the Delphi Golf Course is **GRANTED** subject to the following conditions:

1. The facility is to be unstaffed; no plumbing for domestic use, including sinks or restroom facilities, are approved.
2. The proposal 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) during construction and operations.
3. 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).
4. The tower, including antennas, shall be no higher than 150 feet above grade.
5. 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.
6. A fence with a locking gate shall be maintained around the lease area. It shall either comply with the standards described at TCC 20.33.080(8)(a), e.g., six-foot high chain-link fence, privacy slats, topped with three strands of barbed wire, or it may instead be an eight-foot high solid wood fence with framing members inside designed to provide

similar public safety protection as the fence above by deterring climbing. Note, a fence over six feet would require a building permit.

7. The tower shall be designed with appropriate anti-climbing devices to prevent unauthorized climbing.
8. The tower shall not be provided with hazard markings or lighting.
9. 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.
10. The ground equipment building shall be no taller than 10 feet from finished grade.
11. All development on the site shall be in substantial compliance with the approved site plan. Any expansion or alteration of this use beyond that approved herein will require approval of a new or amended special use permit. The Resource Stewardship Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

DECIDED October 12, 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___.