



COUNTY COMMISSIONERS

Cathy Wolfe
District One

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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. 2015100257 |
| |) | 15 100712 ZM |
| |) | |
| Verizon Wireless |) | Verizon Cooper Point 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 communications facility consisting of a 140-foot monopole and a structure for ground equipment as proposed at 4928 Cooper Point Road NW, Olympia, 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 to include a 140-foot monopole and a structure to house all ground equipment. The proposed site is located at 4928 Cooper Point Road NW, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on November 21, 2016. At adjournment, the record was held open through December 13, 2016 for additional information from the Applicant and the County. The specific information for which the record was held open was identified on the record at hearing. The items were timely submitted and are 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
Arthur Saint, Thurston County Public Works
Michael Maher, Vinculums Services Inc., Applicant Representative
Cathy Funtanilla, Vinculums Services Inc., Applicant Representative
Carl Meline, Verizon Wireless, Applicant Representative
Jeffrey Jones, J.S. Jones and Associates, Applicant Consultant
Robert Dunn, Property Owner
Jay Manning
David Corning
Alan Fiksdal
Karl Geissler
Harold Macomber
Margie Wark

Exhibits

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

1. Resource Stewardship Land Use & Environmental Section Report including the following attachments:
 - A. Notice of Public Hearing
 - B. Master Application, dated January 13, 2015
 - C. Special Use Permit Application, dated January 13, 2015
 - D. SEPA Environmental Checklist, dated January 13, 2015
 - E. Site Plans and construction drawings, dated February 16, 2016 (3 pages)
 - F. Notice of Application, dated March 4, 2015
 - G. Balloon test notification, dated August 4, 2014
 - H. Balloon test photos
 - I. Non-ionizing Electromagnetic Exposure Analysis
 - J. Radio Frequency Documentation
 - K. Third party review
 - L. FAA Report
 - M. Notice to other cell providers (4 pages)
 - N. Acoustical Report
 - O. Critical Area Report – Wetlands
 - P. Habitat Assessment

- Q. Wetland survey (2 pages)
- R. Determination of Non-significance
- S. Memo from Arthur Saint, TC Public Works, dated March 25, 2016
- T. Memo from Nicholas Hehemann, TC Environmental Health, dated March 25, 2016
- U. Letter from Nisqually Tribe, dated December 28, 2015
- V. Citizen comment letters:
 - 1. Dr. & Mrs. Richard L. Evinger, received March 16, 2015
 - 2. Lorraine Manning, March 14, 2015
 - 3. Edward P. Sandor, March 7, 2015
 - 4. Jay Manning, on behalf of Tom Bigley, March 24, 2015
 - 5. Elizabeth J. Utter, March 23, 2015
 - 6. Mary Hommeyer, March 22, 2015
 - 7. Annette & Werner Baumgartner, March 20, 2016
 - 8. David & Tammy Corning, Harold & Barbara Macomber, March 22, 2015, including eleven photos
- 2. Photographs of posted notice, taken by Leah Davis
- 3. Eight public comment letters
- 4. GeoData map of area showing zoning overlay
- 5. Letter from Leah Davis to Frank Mandt, January 11, 2016
- 6. Letter from Tim Bradley Imaging regarding balloon test and photo simulations, November 3, 2016
- 7. Letter from Jeremy McCarty, Verizon Wireless, November 14, 2016
- 8. Email from Jeffrey Jones, May 26, 2016
- 9. Comment letter from David & Tammy Corning, including attachments, November 20, 2016
- 10. Market Study, Integra Realty Resources, January 26, 2016
- 11. Non-Ionizing Electromagnetic Exposure Analysis & Engineering Certification Report, revised November 30, 2016
- 12. Applicant Response to Public Comment, December 1, 2016
- 13. County Response to Applicant Post Hearing Submittals, December 5, 2016, including email from Patrick Andre, dated December 1, 2016

A post-hearing order dated November 28, 2016 is also included in the record.

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 communications facility (WCF) comprised of a 140-foot monopole and a structure to house all ground equipment within a 40- by 40-foot fenced enclosure. The project site is located on a 19.89 acre parcel at 4928 Cooper Point Road NW, Olympia, Washington.¹ The purpose of the proposal is to provide federally mandated E911 service and wireless voice and data service to residents and businesses on the Cooper Point peninsula. *Exhibits 1, 1.B, 1.C, and 1.E.*
2. The subject property has a Rural Residential Resource – One Dwelling Unit Per Five Acres (RRR 1/5) zoning designation. As established in the Thurston County Code, the purpose of the RRR 1/5 zone is to encourage residential development that maintains the county's rural character; provide opportunities for compatible agricultural, forestry and other rural land uses; be sensitive to a site's physical characteristics; provide greater opportunities for protecting sensitive environmental areas and creating open space corridors; enable efficient road and utility systems; and avoid development that creates demands for urban level services. *Thurston County Code (TCC) 20.09A.025.* Unstaffed wireless communication facilities are allowed in the RRR1/5 zoning district subject to special use permit review and approval. *TCC Chapter 20.54, Table 1.*
3. The special use permit application was submitted January 13, 2015 and was deemed complete on February 11, 2015. *Exhibits 1, 1.B, 1.C, and 1.F.*
4. Topographically, the overall subject property is hilly. The proposed WCF site is located on a ridge that divides the Cooper Point peninsula, with ground elevation falling to the east and west. The vacant project site is surrounded by tall fir trees. *Exhibit 1.*
5. Adjacent parcels are zoned RRR1/5 and RL1/1. *Exhibits 1 and 4.* Surrounding parcels are generally developed with rural residences and agriculture. *Exhibit 1, see especially Figure A (page 2).*
6. Proposed improvements include a 140-foot monopole (unguyed) with 12 panel antennas, with associated cables, surge suppressors, and other equipment to be housed within seven ground mounted equipment cabinets, and an ice bridge placed on a concrete pad within the 40- by 40-foot fenced enclosure. Remote radio units (RRUs) would be used to enhance efficiency and remedy coverage gaps. A 30 kW diesel generator is proposed to power the facility during power outages; it would also be placed on a concrete pad. The monopole itself would be painted a flat, non-glare neutral color to blend in with the surrounding trees. The lease area would be enclosed by a six-foot tall chain link fence fitted with dark green privacy slats and a locking gate. The equipment structure would be a maximum of 10 feet tall and will be screened from view by the privacy fence. Vegetation is proposed to be retained to the extent possible, especially trees with the capacity to screen the tower from view. *Exhibits 1, 1.C, 1.D, 1.E, and 1.J; Maher Testimony.*

¹ The legal description of the subject property is a portion of Section 28, Township 19 North, Range 2 West, W.M.; also known as Tax Parcel 35100000803. *Exhibit 1.*

7. The 40- by 40-foot lease area is proposed to be located on the west portion of the subject property, setback amidst fir trees and brush approximately 140 feet from the property line abutting Cooper Point Road. Access is proposed from an existing graveled path most likely left from an earlier logging operation, improved as needed to a width of 20 feet including area for parking and turning one vehicle. The proposal includes a 10-foot wide utility easement from Cooper Point Road to the leased area, to contain a 36-inch deep trench that would be backfilled and planted after installation of the utilities. A Verizon employee would visit approximately once per month and use the provided parking to verify that the equipment is working properly. *Exhibits 1 and 1.E; Maher Testimony.*
8. The site plan shows the tower placed some distance east of the west boundary of the leased enclosure; however, the plans do not expressly call out the setback distance between the monopole and the eastern property boundary. *Exhibit 1.E.*
9. A condition of approval was recommended to require the project design to include an anti-climbing device. *Exhibit 1.*
10. In support of the application, the Applicant submitted radio frequency (RF) documentation demonstrating the need for increased capacity for cellular service coverage in the area. Propagation maps show currently lack of Verizon coverage on the Cooper Point peninsula and the anticipated Verizon coverage with construction of the proposal. The "after" map depicts expected coverage to a substantial portion of Copper Point peninsula, both Budd and Eld Inlets of the Puget Sound, and portions of the adjacent shorelines nearest to the project site. These maps together show that the project expected to significantly increase service to the area, providing federally mandated E911 service along with wireless voice and data service to residents and businesses on the Cooper Point peninsula. *Exhibits 1 and 1.J.*
11. The Applicant submitted a non-ionizing electromagnetic radiation (NIER) study, which calculated the projected maximum RF exposure to individuals resulting from the project. The antennas are to be placed at the top of the monopole, pointing outward, away from the pole. The NIER study noted, as is common, that only authorized maintenance personnel are likely to ever be near enough to the antennas to experience RF exposure from the antennas exceeding Federal Communications Commission (FCC) maximum permitted exposure (MPE) guidelines. Using manufacturer information for the specific equipment proposed, and calculating worst case exposure scenarios, the NIER study concluded that the maximum exposure at six feet above ground level at the base of the monopole assuming full power would be 0.0352% of the maximum permissible exposure allowed for general populations/non-occupational exposure.² Based on the calculations in the report, the facility would comply with current FCC and County requirements for human exposure to radiofrequency electromagnetic fields. *Exhibits 1.I and 11.*

² In the original NIER report, this calculation included an error, which was corrected in the revised report invited to be submitted after close of the hearing. The revised report was timely submitted and admitted in the record at Exhibit 11. This revised report was for the purpose of addressing testimony expressing concerns that the calculation error could have health implications. *Exhibit 11.* See Exhibit 12 for further discussion of the calculation error.

12. As required by code, Planning Staff had the Applicant's RF and NIER documentation reviewed by an independent, third party reviewer to confirm compliance with FCC guidelines and standards. Items subject to third party review include (but are not limited to) the need for cell service, potential for service in the proposed coverage area, and radio frequency non-ionizing electromagnetic exposure analysis. Projected exposure measurements are compared to Federal Communications Commission (FCC) maximum permitted exposure (MPE) guidelines. *TCC 20.33.062*. In reviewing the need for better cell service on Cooper Point Road, the County's third party reviewer found that little to no service is currently available on parts of Cooper Point and submitted the opinion that the proposed location would offer the coverage shown on the propagation maps, which would provide excellent coverage for the area including much needed emergency service for boaters on Budd and Eld Inlets. In reviewing the Applicant's non-ionizing electromagnetic exposure analysis, the third party reviewer did question the Applicant's October 2014 NIER report conclusion that the maximum exposure would be 0.37% of MPE, questioning how the number was derived. Nevertheless, based on independent calculations using the manufacturer specifications of the equipment proposed, the third party reviewer concluded that when the proposed facility is functioning at maximum capacity, the MPE limits at this site would be 10,000 times lower than the FCC's MPE standard. *Exhibit 1.K*. During post-hearing procedures, the third party reviewer accepted the revised November 2016 NIER report. *Exhibit 13*.
13. The County Code prohibits freestanding WCFs and antenna support structures in residential districts unless it can be shown that a site is not available or technically feasible in a nonresidential district and the restriction on siting residential districts would have the effect of prohibiting the provision of personal wireless communication service. *TCC 20.33.080.2.a*. The entire Cooper Point peninsula for a distance of at least six miles is zoned residential. It is not technically possible to provide personal cellular service via a facility located at that distance. *Exhibit 1, page 2; Davis Testimony*.
14. The County Code requires that new WCFs co-locate on an existing antenna support structure if possible. *TCC 20.33.070*. The Applicant's RF report indicates there are no other cell towers in the area on which to co-locate antennas, which is corroborated by the County's third party review. *Exhibits 1, 1.J, and 1.K; Davis Testimony*.
15. The County Code requires a minimum separation from other antenna support structures in the rural County of at least 2,400 feet. *TCC 20.33.080.4.b*. There are no freestanding WCFs within 2400 feet. *Exhibit 1*.
16. Placement of the 140-foot WCF in the proposed location would not interfere with views of any recognized landmark. The Applicant submitted that the WCF would be difficult to see from most vantages due to the surrounding trees and dense understory. *Exhibits 1, 1.C, and 1.D*. Planning Staff concurred. *Exhibit 1; Davis Testimony*.

17. Topographically, Cooper Point peninsula is a ridge that drops to sea level to the east and west of Cooper Point Road; however, the peninsula is heavily vegetated with trees and shrubs that obscure the view of the ridge in most areas. The specific location proposed for the WCF ten feet to the east of the ridgeline, where the Applicant reports tree heights of approximately 130 feet. The Applicant asserted, and Planning Staff concurred, that moving the monopole to a lower elevation would result in increased visibility and greater visual impact because in its proposed location it would be obscured by trees. There is not expected to be a silhouette visible above the ridgeline. *Exhibits 1 and 1.D.*
18. The subject property contains no agricultural critical areas or uses that would prohibit the siting of a WCF at this location. Because the site was known to contain mapped wetlands, the Applicant submitted a wetland delineation report. The April 2016 wetland delineation report found three small wetlands on the subject property and two off-site on adjacent parcels, which were surveyed and flagged on-site in May 2016. Wetlands A, B, and C are Category IV wetlands.³ Wetlands A and B require 140-foot buffers, while Wetland C requires a 160-foot buffer. According to the wetland report, none of the three wetlands provides significant stormwater management or sediment capture functions. Wetlands A and C are adjacent to the gravel driveway and may provide minor pollutant removal water quality benefits. Wetland C has water depths of up to 1.5 feet and may provide breeding habitat for amphibians. The buffers of all three on-site wetlands are forested and provide some wildlife habitat. There are two off-site wetlands referenced in the materials; however, located greater than 315 feet from the proposed lease area, the off-site wetlands were not evaluated. None of the on- or off-site wetland buffers would extend into the lease area. Based on site observations and on Washington Department of Fish and Wildlife (WDFW) online priority habitat and species mapping, the wetland report concluded that no priority species or habitats are found on-site. The Applicant's consultant concluded that the on-site wetlands, and two wetlands found off-site, do not support staging areas, rookeries, or bird species that are listed as endangered or threatened under the Endangered Species Act. *Exhibits 1.O, 1.P, 1.Q, and 8; Jones Testimony.* No further wetland study was required. *Exhibit 5.*
19. In further review of the potential presence of priority habitats, priority habitat species, threatened, or endangered species, the Applicant submitted a habitat assessment prepared by the wetland biologist. The habitat assessment identified priority species as documented within one mile of the site: bald eagle, purple martin, various salmon and steelhead, surfsmelt, and subtidal hard shell clam. Of note, the bald eagle has been federally delisted as endangered; however, it remains a state sensitive species, although a management plan requirement. There is a known bald eagle nest 3,250 feet southeast of the site in Big Tykle Cove. Puget Sound, located approximately 1,600 feet west and 1,900 feet east of the project site, contains the marine species listed above. The consultant concluded that the proposed lease area is not within 1,000 feet of wetlands, staging areas, or rookeries supporting birds listed as priority species by the Washington Department of Fish and Wildlife, listed as endangered or threatened species under the

³ According to the wetland report, Wetland C is Category III, while according to the habitat assessment, it is a Category IV wetland. It appears that the later-prepared habitat assessment is the more detailed and accurate of the two with regard to wetland categorization. *Exhibits 1.O and 1.P.*

federal Endangered Species Act. It further concluded that unlit, unguyed monopoles under 200 feet in height do not pose significant risks of bird collision. *TCC 20.33.080.2.e(i); Exhibit 1.P; Jones Testimony*. The SEPA Environmental Checklist and site plan were routed to WDFW, Ecology, and Nisqually, Squaxin, and Chehalis Tribes. No comments regarding Priority Habitat Species or Species of Concern were submitted. *Exhibit 1; Davis Testimony*.

20. The Applicant commissioned a noise study from a professional consultant. Noise generating equipment proposed with the project includes a 30 kW emergency generator and the ground equipment. The consultant measured the existing average ambient noise levels, which measured 50 decibels largely due to traffic on nearby Cooper Point Road. Using manufacturer information for sound levels generated by the proposed noise-generating equipment and applying factors including location, height, and reflective surfaces, the noise consultant projected anticipated sound levels at the nearest receiving property line, 170 feet to the northwest. According to the study results, sound levels experienced at all receiving property boundaries from operation of the standard (non-emergency) WCF equipment would be 42 decibels, below the day and night time limits established by code. *Exhibit 1.N*. Of note, TCC 10.36.040 (B) and (I) allow for the use of emergency equipment and generators in the event of a power outage during a natural disaster; however, the generator is also required to stay within noise limits during daytime maintenance. The proposal includes a sound enclosure for the generator, which would result in allowable daytime sound levels at the nearest property lines during routine maintenance and testing. *Exhibit 1.N*.
21. Consistent with County Code requirements, the Applicant commissioned a balloon test, which was conducted by a professional photographer. On August 19, 2014, the photographer flew a four foot diameter red balloon at a height of 140 feet at the location of the proposed WCF and photographed the balloon from 11 locations on the peninsula with an eye towards capturing the future view of the completed project. The balloon photos served as the basis for photo shopped simulation photos in which the panel antennas were superimposed over the balloon to depict the views of the WCF from those 11 places. As demonstrated in the Applicant's photo-simulations, the upper portions of the WCF, including antennas, would be visible from some adjacent properties and nearby portions of Cooper Point Road. *Exhibits 1.H and 6*.
22. The application demonstrates that the proposed tower and lease area have capacity to accommodate antennas and equipment for two additional cellular service providers. The record contains verification that other WCF providers were notified of the proposal. *Exhibit 1.M*.
23. The Federal Aviation Administration reviewed the subject property for construction of a 140-foot tower and determined that no warning light is required on the WCF. The Applicant does not propose signals, lights, or signage. *Exhibits 1 and 1.L*.

24. According to the FCC, approximately 70% of all 911 calls are made from wireless phones. Wireless E-911 services demands reliable signal strength and a dense network of antennas to function. Wireless providers are federally mandated to provide E-911 service. *Exhibit 1.J.*
25. The Applicant submitted a market study that considered the potential effects of the proposed 140-foot monopole WCF on surrounding properties on Cooper Point Road NE. Based on the valuation analysis and subject to the definitions, assumptions, and limiting conditions expressed in the report, the consultants concluded that there would be no discernible negative impact on single-family home values resulting from the presence of the subject telecommunication tower. *Exhibit 10.*
26. As a means of analyzing market demand, the Applicant causes text messages to be sent to Verizon wireless users with billing addresses with 98502, 98505, and 98506 zip codes, inquiring after support for a proposed new tower at the subject site. In the three days following the text survey, the Applicant received 744 texts in support of the proposal and 22 opposed to it. The Applicant views this data as supportive of demand and need for coverage improvement in the area generally. *Exhibit 7; Funtanilla Testimony.*
27. The Environmental Health Division (EHD) of the Thurston County Public Health and Social Services Department reviewed the proposal for compliance with health codes. In their comments, EHD Staff noted that the Applicant provided details describing secondary containment of hazardous materials including a double-walled tank for on-site diesel storage. Based upon the review of the submitted information, Environmental Health recommended conditional approval. *Exhibit 1.T; Peebles Testimony.*
28. The County Public Works, Roads and Transportation Services Department reviewed the project for stormwater, erosion control, traffic, and access standards. Public Works Staff determined that the proposal is capable of compliance with applicable provisions of the Thurston County Road Standards and the Drainage Design and Erosion Control Manual and recommended conditional approval. *Exhibit 1.S; Saint Testimony.*
29. The Nisqually Tribe commented that they would like to be notified of inadvertent discoveries of artifacts or human burials. *Exhibit 1.U.*
30. 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 environmental checklist, the master and special use permit applications, site plans, the Applicant's FCC NEPA review documentation, the NIER report, RF documentation and propagation maps, Federal Aviation Administration Compliance letter, the submitted noise study, balloon test, the third party review, 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 (DNS) on December 18, 2015, which was not appealed and became final. *Exhibits 1, 1.D, and 1.R; Davis Testimony.*

31. Notice of the public hearing was posted on-site on November 9, 2016. Notice of the hearing was mailed to all owners of property within 2,600 feet of the site and others who requested notice and published in The Olympian on November 11, 2016. *Exhibits 1 and 1.A.*
32. Public comment offered at hearing and the written comments offered before and during the hearing relating to the special use permit application expressing the following (paraphrased) concerns:

Property Value Impacts: Several people asserted their property values would be negatively impacted. One testified that he spoke to a realtor who indicated that potential buyers would be concerned about health impacts. One individual submitted studies showing negative impacts to property values, one from New Zealand and one from Florida.

Impacts to views: Some project opponents challenged the adequacy of the Applicant's balloon test and contended that the project would result in a WCF that would not comply with TCC 20.33.080(2)(b)(i, views of recognized landmarks) and (ii, perform balloon tests for the proposed and alternative sites). One person argued that the balloon test photos taken from his property were taken from a location selected by the photographer to reduce the appearance of visual impacts. Some comments asserted that the proposed WCF is much taller than the existing trees near the ridge and that the Applicant failed to demonstrate, through balloon tests at alternate sites, that a less view impacting site is not available. One individual asked whether the Applicant could be required to retain a 20- to 25-foot tree/green space easement along Cooper Point Road and along the site access driveway in order to preserve existing natural screening. One person challenged that existing public land (an undeveloped park) approximately one half mile to the south is a more appropriate location for the WCF.

Health Impacts: Some comments included concerns about human health impacts from WCFs, noting that there is a school bus stop on Cooper Point Road and school children may walk the road frontage along the WCF site.

Impacts to birds: At least one member of the public testified regarding concern that birds flying between Eld and Budd Inlets would be at risk for collision with the tower if approved.

Natural gas generator: One person inquired whether a natural gas generator could be used in place of the proposed diesel generator.

Errors in Applicant's NIER report: One member of the public noted that the County's third party reviewer reported errors in the Applicant's NIER report.

Testimony and comment letters of Margie Wark, Harold Macomber, David Corning, and Jay Manning; Exhibits 1.V and 9.

33. Some members of the public testified in support of the facility, citing a need for improved cellular coverage, particularly for emergency response including boaters in both adjacent inlets. One person testified that based on his experience as a realtor, he did not believe property values would be negatively impacted. *Testimony of Karl Giessler, Robert Dunn and Alan Fiksdal; Exhibit 1.*

34. In response to public comment with regard to alternative sites, County Staff submitted that Applicants are required to identify alternative sites if the WCF is proposed in a residential district. Because the entire Cooper Point peninsula is residentially zoned, and is itself the coverage target area, the WCF serving the peninsula cannot be located in a site with other than residential zoning. Staff reiterated that while visible from some vantage points, the WCF is not placed such that it would be capable of obstructing protected views. Staff submitted the opinion that in placing the base of the tower 10 feet lower than the top of the ridge, amongst trees with an average height reported at 130 feet, the Applicant has correctly balanced the requirement to screen the WCF from view with the need for line of sight connection between the WCF and devices relying upon the WCF for coverage. Staff noted that under current zoning, the parcel could be subdivided into four residential lots and submitted that the proposed WCF would have far fewer impacts to surrounding properties and the environment than four houses would. Staff submitted that the Applicant's balloon test satisfies the County's WCF provisions and that it shows minimal impacts to views from surrounding properties and the public roadway. With regard to human health impacts, Staff noted that federal law pre-empts local governments from considering the health impacts of EMFs.⁴ *Davis Testimony.*

35. In response to public comment regarding placement in a different location, Applicant representatives testified at hearing that in developing the instant proposal, Verizon looked at several sites to determine the best location to provide needed coverage. The pre-application site analysis showed two primary benefits of currently proposed location. As proposed, the WCF would cover Boston Harbor, providing coverage addressing area of high demand. Also, proposed site would serve Young Cove and Frye Cove better in conjunction with other proposed facilities than any other spot on Cooper Point peninsula. Wherever the WCF is placed, it will be very difficult to serve the houses down by the water, and a third reason for the present site is that it maximally provides coverage to houses at the waterfront. Specifically with regard to the nearby park land parcel, Applicant representatives indicated that parcel is further south and is outside the search ring. It is also only six to eight acres in area, reducing setbacks to several property lines when compared to the current proposal, and placing the WCF closer to any other use of the property than is required on the subject property. *Maher Testimony.*

⁴ Pursuant to 47 U.S.C. § 332(c)(7)(B)(iv): "No State or local government or instrumentality thereof may regulate the placement, construction, or modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." *Citation in the record at Exhibit 11.*

36. Consistent with the schedule outlines in the November 28th post hearing order, the Applicant submitted information indicating they have confirmed with Verizon that a natural gas-powered generator can be used at this site; however it was not yet known whether natural gas service is available to the subject property. If natural gas is not available in the area, Applicant representatives indicated that they would be able to use green diesel in the generator. With regard to the request for greenbelt preservation to maintain at least the current level of vegetative screening, Applicant representatives proposed to dedicate a 25-foot buffer easement surrounding the proposed lease area. *Exhibit 12.*
37. In response to Applicant's post-hearing submittals, Planning Staff recommended that a condition of approval require the project to include a 25-foot no-cut vegetation easement surrounding the lease area, required to be recorded with the County auditor to ensure that all existing trees, and newly planted trees required as a condition in the Staff Report, shall be maintained into perpetuity. Planning Staff had no further comment to the topic of market impacts of the WCF. With regard to the power supply for the emergency generator, Staff noted that both fuel sources have disadvantages in natural disaster response scenarios. Staff recommended that the Applicant be allowed to select either fuel source, noting that diesel generators must meet the Thurston County Nonpoint Source Pollution Ordinance (Article VI of the Sanitary Code), TCC 24.10.050(B), and TCC 24.10.120. *Exhibit 13.*
38. Planning Staff sent the revised NIER report to the County's third party reviewer, who agreed with the revisions and upheld his earlier conclusion that the study indeed shows the proposed WCF would operate well within maximum exposures allowed by the FCC. *Exhibit 13.*
39. 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." Planning Staff submitted the project would not have undue impacts on surrounding uses because the WCF is proposed on a parcel four times larger than the minimum required for this zoning district, set back 140 feet off of Cooper Point Road, behind dense understory brush, surrounded by tall fir trees and a chain-link fence with privacy slats. Staff surmised that with one employee visit per month after construction, the WCF would have less impact to the natural environment than a single family residence would produce, which use is permitted outright, and that because it is an unstaffed facility, there would be no excess demand for public facilities or services. Staff asserted that the proposed WCF would be a net benefit to the community as a result of cellular and data services, including E911. Planning Staff recommended approval subject to the conditions in the staff report and the post hearing submittals. *Davis Testimony; Exhibits 1 and 13.*

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 a permitted special use in the RRR 1/5 zoning district. As proposed, the WCF would comply with all applicable zoning setbacks and development standards. The revised NIER study demonstrates that the WCF would operate 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. The noise report submitted indicates that sound levels generated by the WCF would fall within allowed limits. No lights are proposed or required by the FAA. The balloon photo simulation shows the WCF would result in minimal impacts to views from some surrounding properties; placement amongst mature trees and being painted matte neutral color would reduce the visual impacts to the extent possible. Additionally, a tree retention easement would be required around the lease area to ensure permanent screening of the tower. On balance, the record does not contain convincing evidence of market impacts, nor convincing argument that potential market impacts to the values of surrounding properties rise to the level of defeating special use permit approval. 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 the surrounding community. The facility would be unmanned, requiring no sanitary or water service and generating approximately one vehicle trip per month. As conditioned, the facility would not result in additional demand on or for public infrastructure or services. Appropriate and adequate review for on-site critical areas and priority habitats and species was conducted, and the resulting studies show no adverse impacts to wildlife, sensitive areas, or protected habitats from the proposal. The project was reviewed for compliance with SEPA and the issued DNS was not appealed. *Findings 2, 3, 6, 7, 8, 10, 11, 12, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 37, 38, and 39.*
2. **Wireless Communications Facilities Use-Specific Standards:** The submitted RF documentation and propagation maps demonstrate the gap in coverage that the proposal seeks to address and 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 the target area, the WCF must be located in residentially zoned lands. The 140-foot tower would be within the allowed height range, set back more at least 110% of the pole's height from all site boundaries, and hidden within tall, mature trees that the Applicant has proposed to retain via tree retention easement. The tower would be painted a matte neutral color. As noted

above, balloon test photographs show that from many points, the tower would not be visible. No lighting, signage, or storage are proposed. There are no critical areas within the project perimeter. The proposed location satisfies the 2,400-foot WCF separation standards for projects in the rural County. Other cellular service providers have been notified of the co-location opportunity. Once per month maintenance vehicles would be the only new traffic to the site; ample area for parking exists adjacent to the equipment enclosure. All support equipment would be enclosed within the locked, fenced lease area and restricted to ten feet in height. As conditioned, the monopole would not be climbable. 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.⁵ *Findings 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 26, 32, 33, 34, 35, 36, 37, 38, and 39.*

DECISION

Based on the preceding findings and conclusions, the requested special use permit to construct a wireless communications facility including a 140-foot monopole a structure to house ground-mounted equipment within a fenced enclosure setback at least 140 from the west site boundary at 4928 Cooper Point Road NW, Olympia, Washington is **GRANTED** subject to the following conditions:

Public Works Department conditions:

1. The proposed roadway in concept and design shall conform to the Road Standards.
2. A construction permit shall be acquired from the Thurston County Public Works-Development Review Section prior to any construction.
3. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division.
4. The storm water management system shall conform to the Drainage Design and Erosion control manual.

⁵ 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.

5. All drainage facilities outside of the county right-of-way shall remain private and be maintained by the developer, owner and/or the property owners association.
6. Storm water runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.
7. No work shall take place until a construction permit has issued by Thurston County Public Works-Development Review Section.
8. The proposed grading or site work shall conform to Appendix J of the International Building Code, Title 14.37 of the Thurston County Code and Drainage Design and Erosion Control Manual.
9. When all construction/improvements have been completed, contact the Thurston County Public Works-Development Review Section at 786-5214 for a final inspection.
10. This approval does not relieve the Applicant from compliance with all other local, state, and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant. One permit that may be required is a construction stormwater permit from the Washington Department of Ecology. Information on when a permit is required can be found on Ecology's website. Any additional permits and/or approvals shall be the responsibility of the Applicant.
11. Once the planning department has issued the official 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 for review and acceptance.
12. 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 permit.
 - e. Schedule a pre-construction conference with County staff.
13. 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.
 - 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. Completion of required signing and striping.
- f. Payment of any required permitting fees.

Environmental Health Code related conditions:

- 14. The facility is to be unstaffed and therefore will not have any plumbing for domestic use, including sinks or restroom facilities. Any future proposals to add restroom facilities or any other plumbing with running water for domestic use must meet all Thurston County Sanitary Code requirements for public water supply and waste water disposal.
- 15. Noise generated by the facility must be in compliance with the noise standards of Thurston County Ordinance, Title 10 and Chapters 173-58 and 173-060 of the Washington Administrative Code (WAC).
- 16. Any generator used on-site that is powered by diesel fuel must meet all storage and secondary containment requirements of the Thurston County Nonpoint Source Pollution Ordinance (Article VI of the Sanitary Code and the Thurston County Critical Areas Ordinance, Chapter 17.15.520 C(2)).

Resource Stewardship Department conditions:

- 17. To mitigate for the added 4,400 square feet of impervious surface, and to address stormwater management concerns of properties down-slope to the east, the Applicant shall plant ten trees of a native species (e.g., Douglas fir or Big leaf maple) on the east side of the 40- by 40-foot fenced facility.
- 18. To increase the vegetative barrier in order to provide more screening from the residents at 4907 Cooper Point Road, Applicant shall plant ten trees of a native species on the south side of the 40- by 40-foot fenced facility.
- 19. The tower, including antennas, shall be no higher than 140 feet above grade and its exact placement shall be at least 154 feet east the site's Cooper Point Road frontage.
- 20. 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.
- 21. A minimum six-foot high chain-link fence with privacy slats shall be maintained around the perimeter of the site.
- 22. The tower shall be designed or fitted with appropriate anti-climbing devices to prevent unauthorized climbing of the tower.
- 23. The tower shall not contain hazard marking or lighting.
- 24. The monopole shall be painted a non-glare gray, blue, green, or other color approved by Thurston County.

25. 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 condition of approval to each new owner or lessee.
26. The ground equipment building shall be no taller than ten feet from finished grade.
27. The Applicant shall obtain a 25-foot no-cut vegetation retention easement surrounding the wireless communication facility. This easement shall be recorded with the County auditor to ensure that all existing trees and newly planted trees shall be maintained into perpetuity for screening purposes.
28. 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.

DECIDED December 30, 2016.



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 \$651.00 for Reconsideration or \$866.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
 Filed with the Resource Stewardship Department this _____ day of _____, 20___.