



COUNTY COMMISSIONERS

John Hutchings
District One

Gary Edwards
District Two

Tye Menser
District Three

HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	
)	
)	NO. 2019100816
)	19 102269 ZM
)	
New Cingular Wireless PCS, LLC)	New Cingular Wireless
)	Summit Lake
)	
For a Special Use Permit)	FINDINGS, CONCLUSIONS,
)	AND DECISION
_____)	

SUMMARY OF DECISION

The request for approval of a special use permit to add a 20-foot extension to an existing 100-foot cell tower, install 12 new panel antennas at the top, and to create a 40- by 28-foot fenced compound to contain a new equipment shelter and ground mounted equipment on a concrete pad at a location addressed as 10000 Highway 8, Olympia, Washington in unincorporated Thurston County is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

New Cingular Wireless PCS, LLC (Applicant) requested a special use permit to add a 20-foot extension to an existing 100-foot cell tower, install 12 new panel antennas at the top, and to create a 40- by 28-foot fenced compound to contain a new equipment shelter and ground mounted equipment on a concrete pad on property owned by the Washington State Department of Natural Resources at a location addressed as 10000 Highway 8, Olympia, Washington.

Hearing Date

The Thurston County Hearing Examiner conducted an open record public hearing on the request on July 9, 2019. The record closed at adjournment of the hearing.

Testimony

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

Scott McCormick, Associate Planner, Community Development & Economic Planning Dept.
Arthur Saint, Thurston County Public Works
Nancy Sears, Smartlink LLC, Applicant Representative

Exhibits

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

1. Thurston County Community Development and Economic Planning Department Report including the following attachments:
 - A. Notice of public hearing
 - B. Master application, received February 26, 2019
 - C. Special use permit application, received February 26, 2019
 - D. Vicinity zoning map – 2018 aerial
 - E. Applicant narrative, dated February 23, 2019
 - F. Dismantle and colocation letter, dated February 25, 2019
 - G. Notice of application, mailed on April 4, 2019
 - H. Adjacent property owners list (2,600 feet)
 - I. Google aerial photo of vicinity
 - J. Directions to site from County Courthouse
 - K. Tower site detail (reduced)
 - L. Site plans
 - M. Photo simulations
 - N. Non-Ionizing Electromagnetic Exposure Analysis & Engineering Certification, dated February 25, 2019
 - O. Licensing information
 - P. Antenna structure registration information – TOWAIR determination results
 - Q. Generator details
 - R. Structural analysis
 - S. TC Environmental Health memorandum, dated May 23, 2019
 - T. Third party review letter, dated May 15, 2019
 - U. Comment letter from the WA Dept. of Ecology, dated April 24, 2019
 - V. Comment email from the WA Dept. of Natural Resources, dated April 23, 2019
 - W. Comment letter from the Nisqually Tribe, dated April 12, 2019

- X. Comment email from the Squaxin Tribe, dated April 4, 2019
- Y. Acoustical report, dated June 21, 2019
- 2. Photographs of posted notice of public hearing (taken by Scott McCormick)
- 3. Letter of authorization from AT&T Wireless, dated June 28, 2019

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

FINDINGS

1. New Cingular Wireless PCS, LLC (Applicant) requested a special use permit to add a 20-foot extension to an existing 100-foot cell tower, install 12 new panel antennas at the top, and to create a 40- by 28-foot fenced compound to contain a new equipment shelter and ground mounted equipment on a concrete pad. The project is proposed on a 441.5-acre parcel owned by the Washington State Department of Natural Resources (DNR) at a location addressed as 10000 Highway 8, Olympia, Washington in unincorporated Thurston County.¹ *Exhibits 1, 1.B, 1.C, 1.F, and 1.L.*
2. The subject property has a Long Term Forestry (LTF) zoning designation. Pursuant to Thurston County Code (TCC) 20.08D.010, LTF zoning is applied to lands that have been designated as forest lands of long-term commercial significance. The purpose of the LTF district is to: maintain and enhance resource-based industries; conserve forest lands of long-term commercial significance; discourage incompatible uses; and promote and protect forestry and its dependent rural community through the enhancement, protection, and perpetuation of the ability of private and public landowners to grow and harvest timber. Despite an apparent typo in the Thurston County Code special uses permitted uses table², remote locations such as the proposed project location within the LTF zone are preferred locations for freestanding wireless communications facilities (WCFs).³

¹ The legal description of the subject property is a portion of Section 17, Township 18 North, Range 3 West; also known as Tax Parcel No. 13817100000. *Exhibits 1 and 1.B.*

² TCC 20.54.070 Table 1 does not identify WCFs as an allowed special use in the LTF zone. Planning Staff conferred and determined that this is a typographical error in the permitted uses table, as remote freestanding WCFs are identified as a preferred location over WCFs in rural residential zones. *TCC 20.33.080; Exhibit 1.* The undersigned takes notice of and concurs with Staff's assessment regarding the apparent error in the permitted uses table at TCC 20.54.070 Table 1 and finds that remote freestanding WCFs are preferred in the LTF zone, in part based on the definition in Footnote 3.

³ The County Code defines Wireless Communication Facility (WCF)/Antenna Support Structure, Remote Freestanding at TCC 20.03.040(146.4): "Remote freestanding wireless communication facility (WCF)" means a freestanding antenna support structure erected to support wireless or other communication facilities within the long term forestry district or military reservation which are located over one thousand four hundred feet from the district boundary or from a property with an existing residence.

3. Surrounding land uses consist primarily of forestry. Rural residential uses are located slightly more than 1,400 feet to the northwest and more than 2,200 feet to the east. There are no critical areas, and specifically no streams or wetlands, within 1,000 feet of the proposed use. *Exhibits 1 and 1.I.*
4. The project proposes to collocate new antennas atop an existing remote freestanding WCF. Although County Staff was not able to locate a previously granted special use permit for the existing WCF on the tower, they did identify several building permits issued in 1983 and 1984 for an antenna and a microwave tower. It is not known for certain, but Staff assumes the subject tower was built following approval of these early 1980s building permits. Since that time, there have been multiple antenna replacements, additional antennas installed, and changes to ground equipment between 1996 and 2017, all of which have been permitted by Thurston County over the years. *Exhibit 1; Scott McCormick Testimony.*
5. The instant special use permit application was received by the County on February 26, 2019 and was deemed complete on March 27, 2019. *Exhibits 1, 1.B, and 1.C.*
6. The existing WCF on DNR land is accessed by forest roads. As depicted on the site plan, there would be ample parking in and around the proposed fenced enclosure. The existing tower is setback 1,433 feet, 10 inches from the nearest boundary of the subject property (west property line). All other setbacks from the subject property boundaries exceed 2,100 feet. *Exhibits 1 and 1.L, Site Plan.*
7. The project would extend the height of an existing 100-foot tall freestanding lattice tower by 20 feet and would install 12 panel antennas at the top of the new tower height. Also on the pole, 12 remote radio units and two surge protectors are proposed. In support of the new WCF use, the project would develop a 40- by 28-foot, nine-inch compound enclosed by a fence, within which a concrete pad would be poured to support eight- by 16-foot equipment shelter. Electric power, supplied to the site by Puget Sound Power, would be provided via a 200 amp electrical meter and telco box on an H-Frame. A DC generator is proposed within the equipment shelter. Ground equipment is proposed to be no taller than 10 feet, and due to the dense surrounding forest, would not be visible to any off-site improvements or properties. The radio units and antennas are proposed to be finished in approximately the same color as the existing antennas and tower. No lights, signage, or outdoor storage are proposed. Once construction is completed, ongoing operations of the new WCF would be unmanned; no public water or sewer service would be required. *Exhibits 1, 1.C, 1.E, 1.F, and 1.L.*
8. The project location is not visible to the nearest residential properties and uses. It is within a forested site that is not adjacent to, or visible from, public roads or sidewalks. *Exhibit 1.* The application materials included photo simulations that depict the existing tower *in situ* and also what the completed project would look like in place on site. The Applicant asserted, and Planning Staff concurred, that the project site's location within a large forested area far removed from public rights-of-way and residential uses would be adequately screened by the existing trees, such that the completed project would not

viewable from off-site. Staff submitted that no additional screening would be needed.⁴
Exhibits 1, 1.L, and 1.M.

9. The proposal would colocate on an existing structure, and thus is exempted from the WCF siting dispersion standard. Of note, there are no other WCFs within 2,400 square feet. *Exhibit 1.*
10. In support of the application, the Applicant submitted radio frequency (RF) documentation, which showed that the total combined maximum permissible exposure (MPE) calculations for the existing carrier and the proposal together would not rise above 0.4% of the allowable maximum exposure limits for radio frequency energy. *Exhibit 1.N.* These calculations were reviewed and evaluated by a third party reviewer as stipulated by the County's WCF development standards. The third party reviewer found the calculations to be correct, to be based on an industry standard approach, and to demonstrate compliance with FCC standards. *Exhibits 1 and 1.T.*
11. The application materials included a structural analysis report that evaluated the existing lattice tower for its capacity to support the proposed improvements. The report concluded that the tower and its foundation have sufficient capacity to carry the proposed load configuration, and that no modifications are required for the current proposal. *Exhibit 1.R.* The County's third party reviewer confirmed that the structural analysis was performed in accordance with industry standards and shows the structure is capable of supporting the proposed improvements. *Exhibit 1.T.*
12. Additional proposed improvements include equipment support cabinets with air conditioning units and an emergency generator; all of this equipment would be located inside the structure. The support cabinets would operate 24 hours per day, seven days per week. The emergency generator would run once a week during daytime hours for testing and maintenance only, except when in use during emergencies. The application materials included a noise study from a professional consultant. The study measured and considered existing ambient sound volumes at the subject property boundaries, concluding the average ambient sound levels are 52 decibels, primarily from local traffic. Most surrounding property is zoned LTF and used for forestry, except for residential uses to the east. The submitted acoustics analysis concluded that the sound volumes experienced at the nearest residential receiving property lines from regular operation of the support equipment would be 16 decibels, largely as a result of the distance, while sound levels from the generator would be 42 decibels. Both sound levels are within County and State allowed noise levels. *Exhibit 1.Y.* The County's third party reviewer indicated that no acoustic analysis was required due to the distance from the project to the nearest residences. *Exhibit 1.T.*
13. The Applicant submitted a determination from the Federal Communication Commission antenna structure registration program (TOWAIR) indicating that the proposed extension of the existing tower does not trigger a requirement to register the tower with the Federal

⁴ If balloon tests were conducted, their results were not provided for the instant record.

Aviation Administration. This determination was based on consideration of the proposed tower height and the fact that there are no airports within eight kilometers. *Exhibit 1.P.* No lights or signals are proposed. *Exhibit 1.*

14. 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 confirming that secondary containment for hazardous materials associated with the proposed generator would be provided. Based upon the review of the submitted information, Environmental Health recommended conditional approval. *Exhibit 1.S.*
15. After reviewing the project for access and storm water control requirements, Public Works Department Development Review Services recommended approval with no additional conditions. *Exhibit 1; Arthur Saint Testimony.*
16. Both the Nisqually Indian Tribe and the Squaxin Island Tribe submitted comments indicating that the Tribes had no particular concerns, but both requested to be notified of inadvertent discoveries of artifacts or human burials. *Exhibits 1.W and 1.X.*
17. The Washington State Department of Ecology submitted a comment letter providing general information regarding the potential for toxics cleanup standards, if contamination is discovered, and erosion control. Planning Staff submitted that neither toxics cleanup nor erosion control are anticipated to be substantial issues for the project. *Exhibits 1 and 1.U.*
18. The Washington State Department of Natural Resources (DNR), which agency owns the underlying parcel on which the project is proposed, submitted comments indicating that the proposal has not been approved by DNR at this time and that the proponent would need to enter into a ground lease with DNR's Communication Sites Program before moving forward with this project. *Exhibits 1 and 1.V.*
19. Because the proposal involves colocation on an existing WCF and associated construction on the ground is below state-adopted exemptions, the project is considered minor new construction/ground disturbance that is exempt from review for compliance with the provisions of the State Environmental Policy Act (SEPA). *Exhibit 1; Washington Administrative Code (WAC) 197-11-800 categorical exemptions.*
20. Notice of the application was mailed to all owners of property within 2,600 feet of the project location and to applicable review agencies on April 4, 2019. Written notice of public hearing was mailed to parties of record on June 20, 2019. Due to the site's remote location, notice of the public hearing was posted at the entrance to the access road to the site on June 26, 2019 (rather than at the project location) and was published in The Olympian on June 28, 2019. *Exhibits 1, 1.A, and 1.G.*
21. There was no public comment on the application. *Exhibit 1; Scott McCormick Testimony.*

22. After considering all testimony offered at hearing together with the complete application materials, Planning Staff submitted that the proposal, as conditioned, would be consistent with the Thurston County Comprehensive Plan and the Thurston County Zoning Ordinance, and recommended approval. *Scott McCormick Testimony; Exhibit 1*. The Applicant representative waived objection to the recommended conditions. *Nancy Sears Testimony*.

CONCLUSIONS

Jurisdiction

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

Special Use Permit Criteria for Review

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

1. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan and all applicable federal, state, regional, and Thurston County laws or plans.
2. Underlying Zoning District. The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.
3. Location. No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:
 - a. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though the adverse effects may occur.
 - b. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

Wireless Communications Facilities Standards

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

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

consistent with other applicable regulations. Priority shall be given (in descending order) to minimizing visibility from existing dwellings, public rights-of-way, and public parks and open spaces.

- vii. In residential and commercial districts, flush mounted antennas shall be used unless the Applicant demonstrates that another mount is necessary.
 - c. WCFs and other antenna support structures shall be located so they do not narrow the sidewalk width below the county's minimum standard, create a hazardous situation for pedestrians, bicyclists or motorists, or interfere with utilities, as determined by the approval authority. (See TCC Title 13, Roads and Bridges).
 - d. WCFs and other antenna support structures shall be located, designed, and screened to maintain property values and neighborhood character.
 - e. WCFs and other antenna support structures shall be sited consistent with the provisions of the Thurston County Agricultural Uses and Lands Critical Areas Ordinance (Chapter 17.15 TCC), the Thurston County Critical Areas Ordinance (Title 24)...;
3. Setbacks.
 - a. WCFs/antenna support structures, except those in rights-of-way, shall be set back from property lines a minimum of one hundred ten percent of the antenna support structure's height, including antennas. ...
 4. Separation. WCFs/antenna support structures shall be separated from one another as follows:
 - a. (not applicable)
 - b. Outside urban growth areas, freestanding WCFs/antenna support structures shall be a minimum of two thousand four hundred feet from another freestanding WCF/antenna support structure.
 - c. Separation distances shall be measured from antenna support structure to antenna support structure regardless of property lines and roadways. ...
...
 5. Co-location. All freestanding and remote freestanding WCFs/antenna support structures shall be designed and constructed to fully accommodate at least two additional WCF providers, including an area for each co-locator's equipment near the base of the tower, each comparable in size to the area required by the Applicant, unless the Applicant demonstrates why such design is not feasible for technical or physical reasons (for example, because it would ruin the disguise of a camouflaged antenna support structure). This requirement does not apply to antenna support structures in rights-of-way. The approval authority may require Applicants to accommodate more than two co-locations, based on documented demand, consistent with the provisions of this chapter.

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

- iii. The approval authority may modify the screening requirements in subsections (7)(d)(i) and (ii) of this section to the extent existing structures on site, existing vegetation along the parcel perimeter, or topography provide adequate screening. The approval authority may also modify or waive those requirements, as she/he deems appropriate, if the Applicant camouflages the WCF/antenna support structure through a design that significantly mitigates its visual impact (for example, but not limited to, an antenna support structure designed to resemble a conifer tree, flag pole, clock tower, street light, or utility pole).
 - iv. Approval of a setback pursuant to subsection (3)(d) of this section is contingent upon the Applicant submitting to the approval authority an easement or other instrument approved by the Thurston County prosecuting attorney's office from the adjacent property owner that accommodates screening required pursuant to this subsection (7)(d).
 - e. Camouflaged WCFs/Antenna Support Structures. Camouflaged WCFs/antenna support structures shall be designed appropriate to the context, as determined by the approval authority, so they do not appear to be out of place. Camouflage proposals shall be modeled after design concepts approved by the department director or designee.
8. Public Safety.
- a. For freestanding WCFs/antenna support structures, a minimum six-foot high chain link fence with privacy slats shall be installed around the perimeter of the site for public safety and screening purposes. The fence and privacy slats shall be a nonreflective, deep green or other color that blends in with the surrounding environment, as determined by the approval authority. (A fence over six feet in height will require a building permit). Access to the tower shall be through a locked gate. The approval authority may authorize alternate methods of providing for public safety if a level of public safety and screening similar to that provided by the previously described fence is clearly demonstrated. These requirements shall not apply to camouflage WCFs and antenna support structures in rights-of-way and their associated equipment cabinets unless potentially dangerous equipment would be accessible by the public.
 - b. For remote freestanding WCFs/antenna support structures, adequate public safety measures shall be provided, as determined by the approval authority.
 - c. All freestanding and remote freestanding WCFs/antenna support structures, with the exception of replacement utility poles, shall be fitted with anti-climbing devices.
 - d. The county shall require remedial action by the responsible party if it determines that structural failure, ice accumulation, or other conditions pose a risk to public safety.

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

TCC 20.33.100 - Design standards for ground mounted equipment structures.

- 1. **Maximum Height.** Ground mounted equipment structures shall not exceed ten feet in height.
- 2. **Location, Design, and Color.**
 - a. Ground mounted equipment cabinets/structures that would be visible from adjacent residential properties or public rights-of-way shall be partially buried, to the extent the seasonal high ground water level permits, of the smallest size possible and of a color, nonreflective material, texture, and architectural design so as to camouflage, conceal, or otherwise make the structure compatible with the setting and any immediately adjacent structure, as determined by the approval authority.

- b. Equipment cabinets/shelters associated with WCFs/antenna support structures in rights-of-way or camouflaged WCFs/antenna support structures shall be buried or located, to the extent possible, to take advantage of the screening afforded by existing structures and vegetation. Ground mounted equipment cabinets/shelters shall be located outside of rights-of-way unless the approval authority determines that the proposed facilities, including associated screening, will not impede existing and planned road, bicycle, pedestrian, and utility facilities nor obstruct motorists' view of the travel lanes (also see TCC Section 20.07.070, Use Limitations on Corner Lots). The portion of the equipment structure/fencing that would be visible from adjacent rights-of-way or parcels occupied or zoned and developable for residential or commercial use shall be screened with evergreen shrubs and/or trees, and/or berms (also see Section 20.33.080(7)). This vegetation shall be of a type, size, and spacing so that within three years of planting (along with any berm or other landscaping feature) it forms a continuous screen as tall as the equipment structure and any associated fencing.
- c. Equipment cabinets/structures must meet all building setbacks, screening and other standards of the underlying zoning district, except where they conflict with specific requirements of this chapter.

Conclusions Based on Findings

1. SUP: Wireless communication facilities are a permitted special use in the Long Term Forestry zoning district and are, in fact, preferred that the LTF district as noted in TCC 20.33.080. As proposed, the WCF would exceed all applicable zoning setbacks. The submitted technical information demonstrates that the WCF would operate within maximum permissible exposure limits for RF radiation established by the FCC, as well as within allowed County and State noise limits. No lights or signals are proposed or required by the FAA. The existing tower location is surrounded by active forest land and the extended tower height with antennas would not be visible from the nearest residentially zoned parcels, nor from public rights-of-way; there would be negligible visual impacts. A condition of approval would ensure the improvements are finished with a color that blends into the visual background. The facility would be unmanned, requiring no sanitary or water service and generating only occasional vehicle trips for maintenance. As conditioned, the facility would not result in additional demand on or for public infrastructure or services. There are no critical areas on-site and no evidence of adverse effects on regulated species or habitats. A condition of approval would ensure the proponent obtains DNR approval prior to construction. *Findings 1, 2, 3, 4, 6, 7, 8, 10, 12, 13, 14, 15, 18, and 22.*
2. Wireless Communications Facilities Use-Specific Standards: The proposal would collocate on an existing remote WCF in the LTF zoning district; no evaluation of alternative sites (to avoid development in residential zoning) is required pursuant to TCC 20.33.080. The existing tower is located more than 1,000 feet from any critical area, including wetlands, and more than 2,400 feet from the nearest freestanding WCF. The proposed additions to the existing lattice tower within the remote, forested subject property would not be visible from any residential areas, public roads, or sidewalks.

There would be negligible visual impacts, if any, and no impact to property values or neighborhood character. At 120 feet in total height, the project would remain well within the 200 foot maximum height limit for remote freestanding WCFs. The proposed location exceeds all minimum required property line setbacks. The project would accomplish the zoning code's mandate for colocation where possible. Enclosed within a remote, fenced compound on DNR lands, the zoning code's WCF public safety provisions are satisfied. The project would be accessed by an existing forest road, and the vicinity surrounding the proposed enclosure, or the enclosure itself, would provide adequate parking for the occasional maintenance of the unmanned facility. The submitted RF documentation demonstrates compliance with County requirements. As conditioned, the tower would be painted a color that would blend with its surroundings. No lighting, signage, or storage are proposed. All support equipment would be enclosed within the fenced lease area and restricted to ten feet in height. As proposed and conditioned, the facility would be consistent with the use-specific standards established for WCFs as well as with the intent of the County's WCF regulations.⁵ *Findings 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, and 22.*

DECISION


Based on the preceding findings and conclusions, the requested special use permit to extend an existing lattice tower from 100 to 120 feet in total height and to install antennas at the top for collocated wireless communications service provision and ground mounted equipment as described herein within a fenced enclosure at 10000 Highway 8 West, Olympia, Washington is **GRANTED** subject to the following conditions:

1. Ground mounted equipment shall not exceed 10 feet in height.
2. A sign shall be posted on the access gate with the WCF provider name and emergency contact phone number.
3. The WCF shall remain in compliance with the Thurston County Wireless Communication Facilities and Antenna Support Structure Chapter (TCC 20.33).

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.

4. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, the Washington State Department of Ecology must be notified. (Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300.)
5. The Applicant shall notify Thurston County Community Planning and Economic Development (CPED) 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.
6. 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. CPED will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
7. The WCF 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, as determined by the CPED, unless a different color or finish is required by the FCC or FAA.
8. The proposed project must comply with the noise standards of Thurston County Ordinance, Title 10, Chapter 10.36 and Chapter 173-60 of the Washington Administrative Code (WAC).
9. The facility is to be unmanned and shall not have any plumbing for domestic use.
10. The proposed diesel generator shall meet all storage and secondary containment requirements of Article VI of the Thurston County Sanitary Code.
11. Any potentially hazardous materials shall be stored and handled in such a way that any spilled or released materials are contained inside a secondary container and are not allowed to release to the environment.
12. The project shall obtain all necessary approvals from the Washington Department of Natural Resources (landowner).

DECIDED July 23, 2019.



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 Community Planning & Economic Development 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 **\$750.00** for a Request for Reconsideration or **\$1,020.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Building Development 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 \$750.00 for Reconsideration or \$1,020.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____, 20___.