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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
302 SOUTH FIRST STREET  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: Order on Special Use Permit SU 01 0865

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: Cingular Wireless, Inc.

ASSESSOR PARCEL NO: P24761

ABBREVIATED LEGAL DESCRIPTION: proposed project is located at 22508 Gunderson Road, Mount Vernon, WA; a portion of the NW 1/4 of the SE 1/4 of Section 14, Township 34 North, Range 4 East, W.M., Skagit County, Washington.

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Cingular Wireless, Inc.  
2445 140th Avenue NE #202  
Bellevue, WA 98005

**File No:** PL01-0865

**Request:** Special Use Permit

**Location:** 22508 Gunderson Road, within a portion of the NW1/4  
SE 1/4, Sec, 14, T34N, R4E, WM.

**Summary of Proposal:** To install a 150 foot monopole with space available for five cellular carriers, together with placement of associated ground equipment. The leased area is 80' by 100.' The top antenna array will consist of a three-sector antenna with two antennas per sector

**Land Use Designation:** Rural Reserve.

**Public Hearing:** After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on April 24, 2002.

**Decision:** The application is approved, subject to conditions.



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## FINDINGS OF FACT

1. Cingular Wireless (applicant) seeks to install a new cell tower to fill a gap in its network coverage along State Highway 9, just north of Big Lake.

2. The planning and zoning designation of the site is Rural Reserve.

3. The property is a 20-acre tract located on the south side of Gunderson Road approximately ¼ mile east of Highway 9. The property is rectangular with a north-south configuration. A single-family residence and a large outbuilding are located on the northern half of the property. The tower site is covered by trees, blackberry bushes and forest undergrowth. The property slopes gently to the south.

4. The applicant requests a Special Use Permit for a 150 -foot monopole tower with space available for co-location by a total of five cellular carriers. The tower would be placed within an 80 x 100-foot leased area surrounded by a six-foot chain-link fence. Within the fence, there would be adequate space for ground equipment for the applicant and up to four additional carriers.

5. A gravel driveway from Gunderson Road serves the residence, the outbuilding and the proposed cell tower site. The leased area is between the residence and the road. The site would be unmanned except for a monthly maintenance check. A parking space would be provided within the leased area for maintenance vehicles.

6. There are no critical areas in the vicinity of the monopole site. The property is not located in a flood hazard zone. A Determination of Non-significance (DNS) under the State Environmental Policy Act was issued on February 14, 2002. The DNS was not appealed. A geotechnical report established the feasibility of the site in terms of stability.

7. The applicant intends to utilize the top position on the tower. It would employ a three-sector antenna array with two antennas per sector for a total of six antennas. Cingular's ground equipment would consist of two small equipment cabinets.

8. A landscaping plan has been submitted for the north, east and west sections of the leased area. The plan includes a 15-foot strip with evergreen plantings (Douglas fir, Strawberry tree, Pacific wax myrtle, Oregon grape, salal). The plan contemplates retention of as much existing mature vegetation as possible.

9. Most of the major carriers lack coverage in the vicinity of the proposed tower. Thus, a co-locatable tower in the area would be desirable as others expand their networks.

10. The tower and site construction would take not more than four to six weeks. Cingular's installation would take two to four weeks. Each carrier that is added would not likely take more than four weeks to co-locate.



11. The facility when installed and in operation would not produce significant noise, traffic, or pollution. There is nothing to suggest that it would cause adverse health impacts. It would not generate intrusions on the privacy of surrounding uses. It would not be located in or adjacent to resource lands.

12. The tower would meet the applicable setback requirement, exceeding 100% of the tower height from all property lines. The adjacent properties are large acreage tracts with similar development. The residential population in the vicinity is low.

13. The chief concern about the proposed tower is over its visual impacts. Several neighbors objected to it on this basis. They testified that the site is a local topographic high point and estimated that the tower would protrude about 50 feet above the surrounding trees. The objecting neighbors asserted that the tower would be highly visible from view properties in Baker Heights to the east that have long looked out on an unsullied natural vista. The sentiment was that the visual intrusion would detract from the rural feeling of an old-established rural neighborhood.

14. Suggestions were made that more effort should be put into looking for an alternative lower site --perhaps further west --that would have a lesser visual impact.

15. The applicant's system requires line-of-sight communications. This means that any antenna it uses must clear the tops of the trees. An antenna located at a lower topographic elevation would probably need to be even higher than the proposed tower.

16. The applicant has satisfactorily demonstrated that a facility is required in this area to satisfy the needs of its grid system. At the site proposed, the 150 foot height is the optimum for Cingular's purposes. A lower elevation is possible, but at 130 feet, they would start to encounter topographic interference.

17. Any other carrier co-locating at the site would have to install its antennas at a lower elevation than Cingular's. Potential coverage for a co-locator was rated as good to excellent at 120 feet. Clearly, any reduction in the height of the monopole would reduce the feasibility of the facility for multiple co-location.

18. The only existing tower within 2,500 feet of the proposed site is the Sprint facility on the Cheek's property to the north. That facility is about 100 feet high. Under the wireless facilities ordinance the most that tower could be increased is 20 feet. A 120-foot tower at Cheek locale would still not work for Cingular. The owner of the property where the Sprint tower is located opposes having its height increased.

19. The proposed tower would have no markings or lights. The proposed color is steel gray, but another color can be required if it is determined that it would better blend with the surroundings.

20. The zoning code allows wireless communication facilities in a Rural Reserve designation by Special Use Permit. SCC 14.16.320(4)(ee). The general criteria for Special Use Permit approval are set forth in SCC 14.16.900(2)(b)(v).

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.
- (c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standard of SCC 14.16.840.
- (d) The proposed use will not generate intrusions on privacy or surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in Industrial Forest-NRL, Secondary Forest-NRL, Agricultural-NRL, and Rural Resource-NRL, the impacts on long-term natural resources management and production will be minimized.
- (g) The proposed use is not in conflict with the health and safety of the community.
- (h) The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

21. The Staff Report analyzes the application in light of these criteria and finds that, with appropriate conditions, it meets them. The Hearing Examiner concurs in this evaluation and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

22. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### CONCLUSIONS OF LAW

- 1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding.
- 2. The procedural requirements of SEPA have been met.
- 3. The code provisions for personal wireless facilities, set forth at SCC 14.16.720, require weighing of the needs for effective and efficient wireless service against the adverse visual effects of wireless towers. Existing structures are favored, where available. Facilities that allow for co-location are encouraged to reduce the proliferation of individual towers. The tower height selected should be the minimum needed to fulfill the site's function within the applicant's system. Sites that provide the

greatest amount of screening should be used. Adverse visual impacts are to be minimized.

4. The record supports a conclusion that the applicant has adequately explored possible alternative sites. There is no suitable existing facility in the near vicinity. The proposed tower will both serve the applicant's needs and help to avoid multiple facilities through the possibility of co-location by others. It does not appear that both of these objectives can be served by a shorter tower. Vegetation will provide screening of the lower portions of the tower. Nonetheless, the tower will be a highly visible and intrusive artificial presence from some residences. Balancing the several factors set forth in the ordinance, the Examiner concludes that it is unlikely that an effective facility could be built at another location with less visual impact. Therefore, he concludes that the proposal, as conditioned, will be consistent with SCC 14.16.720.

5. The proposal, as conditioned, is also consistent with the criteria for Special Use Permit approval. SCC 14.16.900.

6. The following conditions should be imposed.

- (1) The applicant shall obtain all necessary local, state and federal permits prior to the start of construction.
- (2) The proposed tower shall be installed and operated as proposed in the application materials, except as the same may be modified by these conditions.
- (3) No signals, lights or signs shall be permitted on the tower.
- (4) The applicant shall comply with all requirements stated in SCC 14.16.720(13-16).
- (5) At such time as the tower is not in use or has been abandoned, the applicant shall comply with the Non-use/Abandonment regulations in place at that time.
- (6) Engineer grading and drainage plans pursuant to SCC 14.32 are required with the building permit.
- (7) Temporary erosion/sedimentation control must be utilized during construction.
- (8) Landscaping as required in SCC 14.16.720(16) shall be shown on the building permit plans. Existing vegetation shall be maintained.
- (9) The tower shall be finished in a color that blends with the surroundings, as approved by the Planning and Permit Center.



(10) Prior to issuance of a building permit, additional planning review fees shall be paid.

(11) The project shall be commenced within two years of permit approval. The final inspection shall be completed within three years of building permit approval. If these time frames are not met, the permit shall automatically become void.

(12) Failure to comply with the conditions of this permit may result in its revocation.

7. Any finding herein which may be deemed a conclusion is hereby adopted as such.

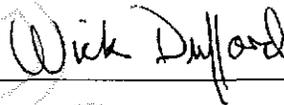
### DECISION

The requested Special Use Permit is approved, subject to the conditions set forth in Conclusion 6 above.

Date of Action: May 28, 2002

Copy Transmitted to Applicant: May 28, 2002

Attachment: Staff Report



Wick Dufford Hearing Examiner

### RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.



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SKAGIT COUNTY PLANNING & PERMIT CENTER

FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER

HEARING DATE: April 24, 2002

APPLICATION NUMBER: PL01-0865

APPLICANT: Cingular Wireless, Inc.

ADDRESS: 2445 140<sup>th</sup> Ave NE #202  
Bellevue, WA 98005

CONTACT: Kristina Park  
SBA Network Services, Inc.  
14900 Interurban Ave. S. #208  
Seattle, WA 98168

**PROJECT LOCATION:** The proposed project is located at 22508 Gunderson Road, Mount Vernon, WA; within a portion of the NW ¼ of the SE ¼ of Section 14, Township 34 North, Range 04 East, W.M., Skagit County, Wa.

**PROJECT DESCRIPTION:** Special Use Permit for the placement of a 150 ft. monopole with space available for a total of 5 cellular carriers within a 80' x 100' leased area. The top antenna array will consist of a three-sector antenna with 2 antennas per sector.

**ASSESSOR'S ACCOUNT NUMBER:** 340414-4-003-0009

**PROPERTY ID NUMBER:** P24761

**RECOMMENDATION:** The Planning and Permit Center recommends approval of the request with conditions.

**EXHIBITS:**

1. Special Use Application including narrative dated November 8, 2001
2. Environmental Checklist
3. Assessor Map



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4. Packet containing: Parcel Plan, Architectural Site Plan, Enlarged site plan, Enlarged equipment plan, Elevation view, landscape plan
5. Letter of completeness dated December 7, 2001
6. Notice of Development dated December 11, 2001
7. Determination of Nonsignificance dated February 12, 2002
8. Statements pursuant to Skagit County Code 14.16.720
9. Propagation Maps (2) and narrative statement
10. Photosimulations (4)
11. Height verification & collation feasibility narrative and maps
12. Geotechnical Engineering Evaluation Report prepared by LSI ADaPT dated November, 2001
13. FAA Determination of no hazard to air navigation dated January 25, 2002

**STAFF FINDINGS:**

1. The subject property is zoned Rural Reserve and Comprehensive Plan designates the area as Rural Reserve.
2. Per Skagit County Code Section 14.06.100 a letter of completeness was issued on December 7, 2001. A Notice of Development Application was posted on the subject property, published in a newspaper of general circulation, and mailed to property owners within 300 feet of the subject property on December 11, 2001 as required by Skagit County Code Section 14.06.150(2) of the Skagit County Code. The public hearing has been advertised and notices sent as required by Skagit County Code Section 14.06.150(3).
3. The application has been reviewed in accordance with the State Environmental Policy Act guidelines (WAC 197-11 and RCW 43.21C). A Determination of Nonsignificance was issued on February 14, 2002, becoming effective following a fifteen-day comment period ending March 1, 2002 and a fourteen-day appeal period ending March 15, 2002.
4. The subject application has been reviewed with respect to the Skagit County Critical Areas Ordinance Chapter 14.24. No critical areas were identified during staff review.
5. The subject property is not located in a Flood Hazard Zone or adjacent to property designated as natural resource lands by the Comprehensive Plan and Zoning Map.
6. The subject property is approximately 20 acres in size and is located on the south side of Gunderson Road approximately ¼ mile east of Highway 9. The property is rectangular in shape and runs in a north/south configuration. The property measures approximately 1290 feet along the west property line, approximately 671 feet along the north property line, approximately 1295 feet along the east property, and



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approximately 668 feet along the south property line. There is an existing single family residence along with a large outbuilding located in the northern half of the property. A gravel driveway off of Gunderson Road serves the residence, outbuilding, and the proposed cell tower site. The subject property gently slopes towards the south. The ground surface of the tower site is covered by trees, blackberry bushes, and forest duff.

7. The applicant is requesting a Special Use Permit to allow for the installation of a 150 ft. self support monopole tower with space available for a total of 5 cellular carriers within an 80' x 100' leased area. The top antenna array will consist of a three-sector antenna with 2 antennas per sector. The lease area is located north of the driveway between the existing residence and Gunderson Road. A 6-foot chain-link security fence is proposed around the tower site. The compound will provide ground equipment space for up to four additional carriers beyond Cingular. Cingular's equipment will consist of two small equipment cabinets and a 3-sector antenna array consisting of a total of six antennas. The applicant has submitted a landscaping plan for the north, east and west sections of the leased area. The plan includes a 15 foot strip with evergreen/vegetation plantings (Douglas fir, Strawberry tree, Pacific Wax Myrtle, Oregon grape, salal) and to retain as much of the existing mature vegetation as possible. A parking space will be provided within the leased area for the maintenance workers. The site will be unmanned except for a monthly maintenance check.
8. This site was identified as a vital link to providing seamless coverage to the residents and travelers of this area. Most major carriers lack coverage in this vicinity making a co-locatable tower highly desirable as other carriers expand their networks. This will reduce the need for additional towers in this area. The site was selected due to its low residential population and presence of mature vegetation to provide natural aesthetic screening.
9. Skagit County Code Section 14.16.720(13)(b) states in land use areas where residential uses are permitted or existing, towers where permitted shall be setback from all property lines a distance equal 100% of the tower height as measured from ground level. The required setback would be 150 ft. from all property lines. The tower will be located approximately 204 feet from the front (north) property line, approximately 392 feet from the side (west) property line, approximately 1077 feet to the rear (south) property line, and approximately 269 feet to the side (east) property line. The tower and accessory equipment will be steel gray.
10. The application has been reviewed by Skagit County Public Works. Engineered grading and drainage plans are required.



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Temporary erosion/sedimentation control must be utilized during construction.

11. Skagit County Code Section 14.16.900(2)(b)(v) Special Uses indicates that certain criteria will be reviewed when approving or denying Special Use Permits. Those items are as follows:

**A. The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.**

The Comprehensive Plan has several objectives and policies that support this application.

Chapter 10 Utilities Element of the Comprehensive Plan state the following: Objective 2 Encourage safe, reliable, and quality utility systems. Policy 10A-2.1 Utility providers shall build and manage utility systems to provide reliable service and to meet the needs of future growth. Policy 10A-2.2 Utilize construction and design standards that are environmentally sensitive, safe, and cost-effective. Policy 10A-2.3 Noise generated by transformer and distribution stations shall not exceed the allowable levels as set by the state.

Objective 5 To site utility facilities to be consistent with the Land Use Element. Policy 10A-5.3 Utility facilities should be permitted in all land use zones as necessary when and where utility franchises exist and if they are in compliance with this Comprehensive Plan. Policy 10A-5.4 Use of wireless technologies shall be recognized as a growing service. This technology has unique visual and noise impacts. Site requirements shall attempt to minimize the unique visual and noise impacts and shall be consistent with the Comprehensive Plan. Siting requirements shall include utilizing existing sites and structures where possible, adequate setbacks, and appropriate landscaping.

**B. The proposed use complies with the Skagit County Code.**

The subject property and surrounding properties are zoned Rural Reserve with a Comprehensive Plan designation of Rural Reserve. SCC 14.16.320 (4)(ee) lists Personal wireless service towers subject to 14.16.720 as a Hearing Examiner Special Use. SCC Section 14.06.900 special uses provide a means to recognize and approve land uses not specifically identified as allowed uses. A special use permit must demonstrate that the proposed activity will not adversely affect or prevent those uses normally allowed within the respective district. The application is then reviewed on its own merits.

**C. The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on**



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surrounding, existing, or potential dwelling units, based on the performance standard of SCC 14.16.840.

As a completed project, the proposed tower and equipment will not create undue noise, odor, heat, vibration, air and water pollution impacts on the surrounding or potential dwelling units. The proposed facility will comply with the noise requirements as listed in SCC 14.16.840(5) Performance Standards.

During the construction period minor amounts of emissions and noise will occur from construction equipment. The tower and site construction should take no more than 4-6 weeks. Cingular's collocation will take 2-4 weeks. It is anticipated that each carrier that is added is not likely to take more than 4 weeks at a time to collocate.

**D. The proposed use will not generate intrusions on privacy of surrounding uses.**

There will be minor intrusion of privacy as a result of the proposed project. The applicant is proposing a 6' fence with barbed wire tops to eliminate illegal access around the easement area. The subject property is approximately 20 acres in size and developed with a single family residence and out buildings. The adjacent properties are also developed and are all large acreage. The site will be accessed off of Gunderson Road by a private gravel driveway. According to information provided by the applicant, the FAA is not requiring any lighting or markings for this site.

**E. Potential effects regarding the general public health, safety, and general welfare.**

There are no known potential effects regarding the general public health, safety, and general welfare as a result of this proposal.

**F. For special uses in Industrial Forest-NRL, Secondary Forest-NRL, Agricultural-NRL, and Rural Resource-NRL, the impacts on long-term natural resource management and production will be minimized.**

The subject property is not located in or adjacent to a resource designated area.

**G. The proposed use is not in conflict with the health and safety of the community.**

The proposed tower/site will not conflict with the health and safety of the community. Industry analysis provided with previous Special Use Applications for communication towers have indicated that there are no known environmental health



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hazards. It has been indicated that the frequencies utilized by these types of communication towers were previously utilized by UHF television. The application complies with the FCC and all state and federal development and operation standards for wireless facilities and will enhance wireless services to the residents of Skagit County.

H. The proposed use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

The proposed use will not have an impact on public facilities or services and will not adversely affect public services to the surrounding areas. The site will need only power and telephone to support its functions. It will not adversely affect public services to the surrounding areas.

#### RECOMMENDATION

Based on the above findings, the Planning and Permit Center recommends **approval** of the application for a Special Use permit allowing a 150-foot monopole subject to the conditions and modifications listed below:

1. The applicant shall obtain all necessary local, state and federal permits prior to start of construction.
2. The applicant shall comply with all requirements stated in Skagit County Code Section 14.16.720 (13-16).
3. At such time the tower is not in use or has been abandoned, the applicant shall comply with the Non-Use/Abandonment regulations in place at that time.
4. Per SCC 14.16.900(2)(d) this permit shall be void if the use permitted by the permit has not been established or a complete building permit filed with the Planning and Permit Center within 2 years of the permit approval.
5. Engineered grading and drainage plans pursuant to SCC 14.32 are required with the building permit.
6. Temporary erosion/sedimentation control must be utilized during construction.
7. Landscaping as required in SCC 14.16.720(16) shall be shown on the building permit plans.
8. A copy of the FAA lighting requirements must be submitted with the building permit.
9. Prior to issuance of a building permit, additional planning review fees will need to be paid.

Prepared by: MS



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