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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 02 0544

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: AT&T BROADBAND

ASSESSOR PARCEL NO: P115559

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at 15730 Peterson Road, Burlington, WA; a portion of the NW 1/4 of the NE 1/4 of Section 3, Township 34 North, Range 3 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: AT&T Broadband
by KDW Architects
c/o Stephen Boie
225 N. 56th St.
Seattle, WA 98103

File No: PL 02-0544

Request: Special Use Permit

Location: 15730 Peterson Road; Lot 1 of the Skagit Regional
Airport Binding Site Plan Phase 1, within a portion of
the NW1/4NE1/4, Sec. 3, T34N, R3E, WM.

Summary of Proposal: Expansion of existing AT&T Broadband facility in
two phases. Phase 1 involves construction of a
1,500 square foot unmanned building, exterior emergency
generator and associated fuel tank. Depending on future
demand, Phase 2 will involve building an addition of
1,500 to 4,000 square feet within 3 to 6 years of the
present.

Land Use Designations: Comprehensive Plan: Bayview Ridge Urban Growth Area
Zoning: Bayview Ridge - Industrial

Public Hearing: After reviewing the report of the Planning and Permit
Center, the Hearing Examiner conducted a public hearing
on January 29, 2003.

Decision: The application is approved, subject to conditions.



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FINDINGS OF FACT

1. KDW Architects seek a Special Use Permit for AT&T Broadband in order to expand existing facilities on property leased from the Port of Skagit County within the Bayview Ridge - Industrial zone.

2. The facility is located at 15730 Peterson Road, within a portion of the NW1/4NE1/4, Sec. 3, T34N, R3E, WM. The parcel is Lot 1 of the Skagit Regional Binding Site Plan Phase 1. It is approximately an acre in size and surrounded by a four-foot wire fence. The road borders the north side of the site.

3. The existing facility consists of a 260 square foot building, an emergency generator and propane tank, several satellite dishes and a 60-foot cell tower that is not currently in use. In connection with the proposed project, the satellite dishes will be removed. The other facilities will remain, at least for the present. The building may ultimately be converted to storage space.

4. The presently developed area of the site is covered with gravel and enclosed with an eight-foot chain link fence with vinyl slats.

5. The new building will be located south of the existing facility and will initially (Phase 1) be 1,500 square feet in size. The building will house electronic switching gear for use in connection with cable television and high speed internet service. No airborne transmission or reception will be involved. The signals will arrive and depart by fiber optic cable.

6. The Phase 1 building will be not be continuously manned. Employees may come to the site from time to time during regular working hours to monitor equipment, but no one will work in the building on a full-time basis.

7. A pad mounted exterior emergency generator and an associated above ground fuel tank will be installed to the north of the Phase 1 building. Provision will be made for a future second generator in the same locale. The new generator and fuel tank will be screened from Peterson Road via a screen wall.

8. The Phase 1 building will be placed approximately 33 feet from the west property line, 880 feet from the east property line, and 116 feet from the south property line.

9. Phase 2 will involve building an addition connecting to the south side of the Phase 1 building of from 1,500 to 4,000 square feet in size, depending on business demand. This expansion is projected to occur within 3 to 6 years.

10. After the Phase 2 addition is made, the building will probably be manned on a full-time basis with perhaps one full-time employee and two "drop ins."



11. Public water and sewer service is now available to the property, but not installed. If and when the facility has full-time employees on hand, hook up to the Burlington sewer and Public Utility District water will be required.

12. The new facility will be constructed of split face and ground face CMU. The roof will be sloped for positive drainage with overhangs. There will be metal awnings provided over the exterior doors for weather protection. Six parking stalls will be provided.

13. Storm drainage from the new facility will be routed through an on-site oil/water separator to the Port's system in the street. The on-site fuel tanks will be double walled and containment will be designed to meet current standards. A spill prevention plan, including monitoring for leaks, will be in place.

14. The adjacent properties are all with the same industrial zone. The lands to the east, west and south are all undeveloped. To the north there is a large warehouse type building.

15. The subject property is basically flat. It contains no wetlands and not within 200 feet of a wetland. There are no streams, other critical areas or agriculture within 200 feet of the property. The site is not with the 100-year flood plain. Within the property along the eastern line is a 20-foot-wide storm drainage easement. Along the south and west portions of the property is a 10-foot-wide sewer easement.

16. As a part of the project, the north side of the site facing Peterson Road will be landscaped to meet County requirements. Extending south from Peterson Road will be a gravel driveway along the west side of the site. The west side of the driveway will be planted with low shrubs. The south and east sides of the property will be naturally hydroseeded. The remainder of the site will be graveled and fenced to match the existing developed area.

17. The facility will not generate noise, vibration or smoke. The appearance of the facility will be appropriate to the industrial setting. The environmental impacts will be insignificant.

18. A Mitigated Determination of Non-Significance (MDNS) containing standard conditions was issued on November 21, 2002. The MDNS was not appealed.

19. The application was circulated to appropriate agencies. None objected. Their comments are handled through conditions of approval.

20. There was no public comment on this proposal.

21. The general criteria for Special Use Permit approval are set forth in SCC 14.16.900(2)(b)(v), as follows:



- (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.

22. The Staff has analyzed the application against these criteria and determined that, as conditioned, it will be consistent with them. The Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

23. 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 requirements of the State Environmental Policy Act have been met.
3. The proposal constitutes a "major utility development." SCC 14.04.020. In the Bayview Ridge Industrial zone, such developments require a Hearing Examiner Special Use permit for approval. SCC 14.16.180(6)(e).
4. The proposal will be consistent with the Special Use Permit approval criteria of SCC 14.16.900(2)(b)(v), if the following conditions are imposed:
 - (1) The project shall be built and operated in accordance with the application, except as the same may be modified by these conditions.
 - (2) The permittee shall obtain all other applicable permits, including building and access permits.



- (3) The permittee shall comply with the conditions set forth in the MDNS.
- (4) Prior to issuance of any building permit, the permittee shall ensure compliance with SCC 14.16.210 -- Airport Environs Overlay.
- (5) The Special Use Permit shall be void if the project is not started within two years of permit approval or if abandoned after construction for a period of one (1) year.
- (6) The Planning and Permit Center shall be notified within 30 days after any change in the lessee of the parcel by submitting a letter to the Planning Director referencing the permit number (PL 02-0544).
- (7) Prior to the issuance of any permit, planning review fees shall be paid in full.

5. 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 4 above.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: February 5, 2003

Copies Transmitted to Parties: February 5, 2003

Attachment: Staff Report

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.



SKAGIT COUNTY PLANNING & PERMIT CENTER

FINDINGS OF FACT

HEARING AUTHORITY: SKAGIT COUNTY HEARING EXAMINER
HEARING DATE: January 29, 2003
APPLICATION NUMBER: PL02-0544
APPLICANT: KDW Architects on behalf of AT&T
Broadband
Attn: Stephen Boie
ADDRESS: 2225 N 56th St.
Seattle, WA 98103

PROJECT DESCRIPTION: Special Use Request for a major utility development---the expansion of the existing AT&T Broadband facility. This facility will be used to improve and augment the telecommunications and broadcasting services currently provided by AT&T Broadband in support of Skagit County. The project will be phased. Phase 1 includes the construction of an approximate 1,500 square foot unmanned building. Phase 2 includes a building addition of approximately 1,500 to 4,000 square feet and development would occur within 3-6 years. The future expansion size and timeline would be determined based on future telecommunication and broadcasting demands within the county.

PROJECT LOCATION: The proposed project is located at 15730 Peterson Road, Burlington, WA; Lot 1 of the Skagit Regional Airport Binding Site Plan Phase 1; within a portion of the NW ¼ of the NE ¼ of Section 03, Township 34 North, Range 03 East, W.M., Skagit County, Wa. P#115559.

ASSESSOR'S ACCOUNT NUMBER: 8012-000-001-0000

P# Number: P#115559

ZONING: Bayview Ridge Industrial (BR-I)

COMPREHENSIVE PLAN: Bayview Ridge Urban Growth

RECOMMENDATION: The Planning & Permit Center recommends **approval** of the application for a Special Use permit, subject to conditions and modifications.



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EXHIBITS:

1. Application dated September 26, 2002
2. Applicant's Narrative
3. Environmental Checklist
4. Site Plan
5. Landscaping plan
6. Assessor Map
7. Letter of completeness dated October 29, 2002
8. Notice of Development dated October 31, 2002
9. Determination of Nonsignificance dated November 21, 2002
10. Skagit County Code 14.16.210 Airport Environs Overlay
11. Staff photos

STAFF FINDINGS:

1. The subject property has a zoning designation of Bayview Ridge Industrial and a Comprehensive Plan designation of Bayview Ridge Urban Growth.
2. Per Skagit County Code Section 14.06.100 a letter of completeness was issued on October 29, 2002. 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 October 31, 2002 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 Mitigated Determination of Nonsignificance (DNS) was issued on November 21, 2002 becoming effective following the fifteen-day comment period ending 12-06-02 and 14-day appeal period ending 12-20-02. The following conditions were attached:
 - Temporary erosion/sedimentation control measures shall be in place prior to the placement of any fill material. Said measures shall remain in place until completion of the project.
 - The applicant shall comply with Northwest Air Pollution Authority requirements.
 - The applicant shall comply with Fire Code Standards.
 - An Engineered soil compaction report shall be required for all structures placed on fill material.
4. The subject application has been reviewed with respect to the Skagit County Critical Areas Ordinance Chapter 14.24 of the Skagit County Code. The project area does not impact any wetlands per Skagit WIN (Wetlands Industrial Negotiations) Phase III.



5. The subject property is not located within a flood hazard zone and is not adjacent to lands designated as natural resource.
6. The subject property is approximately 1 acre in size and located on the south side of Peterson Road within the boundaries of the Port of Skagit County. The property is rectangular in shape and runs in a north/south configuration. The property measures approximately 160 feet wide by 272 feet long. Currently there is a small building, an approximate 60 foot tower, several satellite dishes, an existing propane tank, and emergency back up generator located in the northern half of the property. The satellite dishes, propane tank and back up generator will be removed. Around the developed portion of the property is an 8 foot high chain link fence with vinyl slats for screening while the entire parcel is surrounded by a 4' wire fence. Public water and public sewer are available to the site, however are currently not installed.
7. The subject property is basically flat and is surrounded by undeveloped land to the east, west and south. The property to the north is developed with a large warehouse type building. All of the surrounding properties are also within the Bayview Ridge Urban Growth Area. The properties to the north, south, and west are part of the Port of Skagit County. Located within the property boundaries along the east line is a 20' wide storm drainage easement, in the southern portion of the property is a 10' wide sewer easement that also runs adjacent to the west property line.
8. The applicant is requesting a Special Use Request for the expansion of the existing AT&T Broadband Hub facility. This type of facility has been deemed a major utility. This facility will be used to improve and augment the telecommunications and broadcasting services currently provided by AT&T Broadband in support of Skagit County. Phase 1 of the project proposal includes the construction of an approximate 1,500 square foot unmanned building. The purpose of the new building is to provide space for new telecommunications and broadcasting equipment necessary to serve increased demands for these types of services. The new facility will have an exterior emergency back up power generator and associated above ground fuel tank. The generator and fuel tank will be screened from Peterson Road via a screen wall. Although the facility will be unmanned, an AT&T Broadband employee may come to the site during regular business hours to monitor equipment. The existing facility will eventually be decommissioned and used for future storage.

Phase 2 would be a building addition of approximately 1,500



to 4,000 square feet and would occur within 3-6 years. The future expansion size and timeline would be determined based on future telecommunication and broadcasting demands within the county.

9. The proposed building will be located south of the existing building approximately 55 feet. It will be placed approximately 33 feet from the west property line, approximately 80 feet from the east property line, and approximately 116 feet from the south property line. The self contained emergency back up generator and above ground diesel fuel tank will be sited north of the new building. The north side of the site facing Peterson Road will be landscaped per Skagit County Code. The west side of the side along the driveway will be landscaped with low shrubs and the south and east sides will be naturally hydro-seeded. The remainder of the developed area will be graveled and fenced to match the existing area.

The Phase 2 addition(s) will connect on the south side of the new proposed building keeping the same distances from the side property lines. With this addition, the building could become manned on a full time basis with possibly one full time employee and two "drop ins". At that point, water and sewer along with parking would be required to be provided.

10. SCC 14.04.020 defines major utility development as utility developments designed to serve a broader community area, or are manned. SCC 14.16.180(6)(c) requires a major utility to be reviewed as a Hearing Examiner Special Use.

10. The application was routed to the various county departments for review and comments. Their comments are as follows: **Public Works**—Drainage will need to be addressed in accordance with SCC 14.32. An access permit may be required from Public Works. **Septic**—no comments. **Ron Palmer, Environmental Health**—We have no object to approval of this special use request provided a sewer permit is issued by the City of Burlington and a letter confirming the availability of water is received from PUD#1 prior to building permit issuance. Staff notes the Phase 1 building will be unmanned and will not require these amenities, however, these would be required for any future additions that would be manned.

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 subject property is zoned for industrial uses and is part of the Port of Skagit County. Chapter 10 Utilities of the Comprehensive Plan has several objectives and policies that apply to this request. Objective 2 Encourage safe, reliable, and quality utility systems. Policies 10A-2.1 Utility providers shall build and manage utility systems to provide reliable service and to meet the needs of future growth. As stated by the applicant, the current facility can not meet the growing demands of the county. This project will meet the telecommunication demands and will increase the level of service and reliability in the community. 10A-2.2 "Utilize construction and design standards that are environmentally sensitive, safe, and cost-effective". 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. Policies 10A-5.1 states Utility providers should avoid placement of facilities in areas defined as environmentally sensitive or critical areas unless there are no feasible alternatives and only after a site assessment and mitigation plan has been approved under the provisions of the Critical Areas Ordinance. 10A-5.2 Outdoor installations of transfer and distribution stations providing electrical power, communications, and natural gas, should, where practicable, be located in industrial or commercially zoned areas. Stations should be reasonably compatible with surrounding uses. 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. 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 is zoned Bayview Ridge-Industrial (BR-I). Skagit County Code 14.04.020 defines major utility development as utility developments designed to serve a broader community area, or are manned. SCC 14.16.180(6)(c) requires a major utility development to be reviewed as a Hearing Examiner Special Use. 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 surrounding, existing, or potential dwelling units, based on the performance standard of SCC 14.16.840.

Based on SCC 14.16.840 performance standards the proposed use will not create any undue impacts on the surrounding, existing, or potential dwelling units. The generator and the condensers are on vibration isolators to eliminate any vibration that would cause disturbances to the surrounding area. The equipment will be in compliance with SCC 14.16.840(2). The facility's telecommunication equipment will generate heat within the building however, the air is continually being cooled. This will not affect adjacent properties.

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

Phase 1 of the proposed use will be unmanned except for the occasional employee doing a maintenance check. Phase 2 has the potential of having 2 or 3 employees on site however they will have no reason to enter on to the adjacent neighbors properties. The developed site will be enclosed by an 8' high fence with privacy slats and no access to the adjacent sites. There is a wire fence that goes around the entire parcel.

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

If the Special Use is approved, there will be minimal effects on the general public health, safety and general welfare as a result of this proposal. There are no harmful chemicals or solvents used on site that could create health hazards for the public. The diesel fuel tank will be installed and maintained per UBC and UFC standards.

- 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 within or adjacent to natural resource lands.

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

The health and safety of the community will not be affected by this proposed expansion.



- 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 project is an expansion of an existing operation and will be supported by adequate public services and will not adversely affect public services to the surrounding areas.

RECOMMENDATION:

The Skagit County Planning & Permit Center recommends **approval** of the application for a Special Use permit for the expansion of a major utility development-AT&T Broadband, subject to the conditions and modifications listed below:

1. The applicant shall obtain all applicable permits (building, access, etc.)
2. Applicant shall comply with all conditions outlined in the MDNS.
 - Temporary erosion/sedimentation control measures shall be in place prior to the placement of any fill material. Said measures shall remain in place until completion of the project.
 - The applicant shall comply with Northwest Air Pollution Authority requirements.
 - The applicant shall comply with Fire Code Standards.
 - An Engineered soil compaction report shall be required for all structures placed on fill material.
3. Prior to issuance of any building permit, the applicant shall comply with SCC 14.16.210 Airport Environs Overlay.
4. The special use permit shall be void if not started within (2) two years of the date of this order and if abandoned for a period of 1 (one) year.
5. The County Planning and Permit Center shall be notified within 30 days after any change in ownership of the parcel by submitting a letter to the Planning Director referencing the permit number (PL01-0199).
6. Prior to the issuance of any permit any outstanding planning review fees shall be paid in full.

Prepared by: MS



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