

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Angela Raymond/Horizon Tower LLC
117 Town & Country Drive, Suite A
Danville, CA 94526
- Request:** Special Use Permit, PL19-0571
- Location:** 18784 Kim Place
Burlington, WA 98233
P118029
- Land Use Designation:** Rural Reserve (RRv)
- Summary of Proposal:** To construct a new wireless telecommunication facility, operated by Horizon Tower LLC and leased to Verizon Wireless, consisting of a 95-foot monopole with six antennas, equipment cabinets, and a back-up diesel generator, contained within a 40' x 40' leased area. The site has been designed to accommodate two additional carriers.
- Public Hearing:** May 27, 2020. Testimony by Planning and Development Services (PDS) staff and Angela Raymond for applicant. No public testimony.
- Decision/Date:** The application is approved, subject to conditions. June 5, 2020
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 14 days of this decision, or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. Angela Raymond for Horizon Tower LLC seeks permission to build a new wireless telecommunication facility. The facility will be leased to Verizon Wireless.

2. The project, called the Harrington/Bow Hill facility, will be located at 18784 Kim Place, Burlington, on Lot 4 of River Valley View Estates, located within SE1/4SE1/4 Sec. 31, T36N, R4E, W.M. The site is due east of the Skagit Casino, north of Bow Hill Road, between Interstate 5 and Old Highway 99.

3. The site and surrounding land are located within the Rural Reserve (RRv) land use designation. Parcels range from 5 to 60 acres in size devoted to single-family residential, forest, and agricultural uses. The closest residence is that of the site owner Fred Olson and is 245 feet south of the proposed facility.

4. The proposal is to erect a 95 foot tall monopole camouflaged to look like a conifer. Branches of the “monofir” will extend above the monopole to a total height of 100 feet. The facility will initially have six antennas. On the ground will be equipment cabinets and a 30 kilowatt back-up diesel generator. All components of the facility will be contained within a 40’ x 40’ leased area. The site is designed to accommodate two additional future wireless carriers.

5. The site is parcel P118029, a 6.22 acre platted lot. The lot is terraced. The west half is relatively flat and then there is a drop of about 80 feet to the eastern border. The easterly 1.05 acres has been designated a Protected Critical Area.

6. Kim Place, a private road, runs along the west side of the lot from the southwest corner up to about the midpoint and then turns to the east, crossing Jennifer Lane (Harrington Lane on some map exhibits) at the eastern boundary. The parcel contains a single-family residence with attached garage in the southwest portion. The tower site is in the northwest corner of the lot, north of Kim Place.

7. Mature evergreens and deciduous vegetation border the north and west sides of the leased area. Landscaping is proposed on the south and east sides. The leased area will be surrounded by a six-foot-high chain link fence. The area is 60 feet from the west property line, 510 feet from the east property line, 70 feet from the north property line, and 330 feet from the south property line. The tower itself will be within the southeast corner of the leased area, thus meeting the requirement for a setback equal to its height from all boundaries. There is a 1,200 square foot detached garage building approximately 10 feet south of the tower site.

8. Access to the tower site will be via a proposed driveway (easement) off the north side of Kim Place. The facility will be unoccupied except for maintenance inspections. Parking for the tower will be on the west side of the leased area. About 90 cubic yards of fill and grade activity will be needed to complete the project.

9. The service propagation maps show that the proposed location is needed to fill a gap in current wireless service. The 95-foot tower height is the minimum necessary because of surrounding vegetation and rolling terrain features.

10. Visual impacts will be softened by camouflaging the tower as a conifer tree. Existing vegetation on the west and north will provide screening. To the south and east, landscaping will screen the ground level equipment. A detailed landscaping plan must be submitted with the building permit application. The tower site is at least 820 feet from the nearest non-owner neighbor's residence. Photo simulations demonstrate that, overall, undue aesthetic impacts will be avoided.

11. The tower will be constructed to meet applicable standards for structural integrity. Technical studies demonstrated that the facility will comply with Federal Communications Commission rules for RF exposure, and that it will not violate applicable noise limits.

12. The application was determined to be complete on December 10, 2019. A Notice of Development Application was posted, published and mailed to nearby property owners as required by law. After environmental review, a Mitigated Determination of Non-Significance (MDNS) was issued on January 7, 2020. No appeals were submitted.

13. The MDNS contained the following conditions:

- (1) The applicant shall comply with Northwest Clean Air Agency requirements.
- (2) The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Stormwater Management Ordinance, as it relates to increased runoff resulting from additional impervious surfaces.
- (3) The applicant shall comply with Fire Code Standards.
- (4) The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance) of the Skagit County Code.
- (5) The applicant shall obtain and comply with all necessary state and federal authorizations prior to beginning any ground-disturbing activities or vegetation removal in conjunction with this proposed project.
- (6) A professional archeologist may be required to be on site for any land disturbance activities.
- (7) A Construction, or Industrial, Stormwater General Permit (NPDES) may be required by the Department of Ecology (WSDOE) for this project. Contact the WSDOE Bellingham Field Office at (360) 715-5200 to determine if an NPDES is required.

14. Two comment letters expressed concerns. The Skagit River Cooperative asked about fill & grade in proximity to a fish bearing stream. The Upper Skagit Tribe requested the presence of a professional archeologist at ground disturbing activities. It was subsequently confirmed that the tower site is too far from any stream to be of concern. A condition of approval was added requiring that an archeologist be on site to monitor ground disturbance.

15. The application was circulated to various County departments. There were no critical comments.

16. The Staff evaluated the application in light of the particular requirements for Personal Wireless Facilities and the general requirements for Special Uses. Staff found that, as conditioned, the proposal will be consistent with the applicable approval criteria. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over these proceedings. SCC 14.16.320(4)(y), SCC 14.16.900(1)(b)(ii)

2. The requirements of the State Environmental Policy Act (SEPA) have been met.

3. As conditioned the proposal meets the criteria for approval of a personal wireless services facility (SCC 14.16.720) and a special use permit (SCC 14.16.900(2)(b)(v)).

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

CONDITIONS

1. The project shall be constructed and operated as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall obtain all required permits and abide by the conditions of same.

3. The project shall meet all conditions listed in the MDNS issued January 7, 2020 (See Finding 13).

4. An approved building permit must be obtained prior to the construction of the facility. The building permit application shall include structural calculations for the tower and its foundation stamped by professional engineer.

5. Per SCC 14.16.720(2), building permit applications submitted in association with this special use shall include the following:

a) Parcel Description. Legal description of the parcel, including Assessor account number and property identification number.

b) Site Plan. A scaled site plan showing the location, point of reference, type, height and longitude and latitude of the proposed tower and antennas, existing building, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadway rights-of-way, parking areas if applicable, proposed means of access, setbacks from property

line. The method of fencing and, if applicable, the method of camouflage, noise screening, and illumination shall be indicated. The application shall also include elevation drawings of the proposed tower and any other proposed structures.

c) Landscaping Plan. A landscaping plan shall be prepared indicating the specific placement of the facility on the site. Trees and other significant site features, the type and location of plants shall be shown.

6. A detailed landscaping plan for the south and east perimeters of the tower site shall be submitted with the building permit application for the facility. This plan shall meet requirements found in SCC 14.16.720(16) and include:

(i) A row of evergreen trees a minimum of 10 feet tall at planting and a maximum of six feet apart shall be planted around the fence, or per the approved landscaping or screening plan. The intent is for the immediate screening of the tower.

(ii) A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within 18 months shall be planted in front of the tree line referenced above.

(iii) In the event that landscaping is not maintained at the required level, the County, after giving 30 days advance written notice, shall maintain or establish the landscaping and bill both the owner and provider for such costs until such costs are paid in full.

7. If any ground disturbance in association with the project will occur prior to the issuance of a building permit, a fill and grade permit shall be obtained.

8. Prior to any ground disturbing activities in association with this project, the Upper Skagit Indian Tribe shall be contacted to coordinate the presence of a professional archaeologist on site to monitor project ground disturbance.

9. A full drainage report may be required to be submitted with the building permit application.

10. An approved access permit may be required to be submitted with the building permit application.

11. The support facility structures/equipment shall be painted in earth tones and muted colors.

12. All future tower site modifications and collocations shall meet the requirements of SCC 14.16.720(6). All Verizon equipment and future carriers shall be located within the leased area and shall meet underlying zoning setback requirements. A modification of this permit shall be required to expand the current leased area.

13. Any improvements or additions to the tower shall require submission of site plans stamped by a professional engineer, demonstrating compliance with the EIA standards and all other good industry practices. Such plans shall be submitted and reviewed at the time building permits are requested.

14. The new facility shall comply with all requirements found in SCC,16,720, *Personal Wireless Service Facilities*.

15. Construction of the facility and its operation shall not exceed parameters for noise, light and vibration per SCC 14.16.840 and Chapter 173-60 WAC.

16. Per SCC 14.16.720(18)(m), in cases where personal wireless services facilities are to be accessed by private roads which are also used to access adjoining properties, the permittee shall repair and maintain roads back to original (pre-facility) conditions, unless all interested parties agree to a different standard.

17. All tower site installation/operation recommendations listed within the *Non-Ionizing Radiation Report* by Infinigy, dated August 8, 2019, shall be implemented.

18. As proposed, the facility shall be unoccupied and no plumbing shall be installed. If at any time, the facility will be occupied or plumbing is proposed, a complete Skagit County water review will be required.

19. Temporary erosion/sedimentation control shall be used during construction of the facility and access road pursuant to Chapter 14.32 SCC, Drainage Ordinance.

20. Per SCC 14.16.720(12)(f), the tower and antennas must meet or exceed standards and regulations of the FAA and FCC and any other agency of the Federal government that has authority to regulate towers and antennas.

21. Cause for Removal. If, upon inspection, the County concludes that a tower fails to comply with applicable standards or constitutes a danger to persons or property, then after notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with standards. If the owner fails to bring the tower into compliance within the 30 days, the County shall notify the owner that a violation has occurred.

22. Per SCC 14.16.720(12)(d), yearly inspections of the facility will be required. The facility operator shall conduct a safety inspection and file a report with Skagit County within 60 days of the inspection.

23. If the wireless facility is abandoned and no longer in use the applicant (provider) must meet all requirements found in SCC 14.16.720(19).

24. All outstanding planning review fees shall be paid in full prior to submittal of the building permit application.

25. A copy of this decision shall be submitted with the building permit.

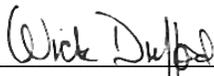
26. Per SCC 14.16.900 the project shall be commenced within two years of permit approval.

27. Failure to comply with any permit condition may result in permit revocation. SCC 14.16.900(1)(b)(iii).

ORDER

The requested Special Use Permit (PL19-0571) is approved subject to the conditions set forth above.

SO ORDERED, this 5th, day of June, 2020



Wick Dufford, Hearing Examiner

Transmitted to applicant, applicant's agent, and staff, June 5, 2020.

See Notice of Decision, page 1, for appeal information.