

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** New Cingular Wireless  
Redmond Town Center, Building 3  
P. O. Box 97061  
Redmond, WA 98073-9761

**Agent:** Liz Carrasquero  
Wireless Facilities, Inc.  
575 Andover Park West, Suite 201  
Tukwila, WA 98188

**File No:** PL05-0676

**Request:** Special Use Permit

**Location:** North of the O'Hara Road and the abandoned PS&BR  
Railway right-of-way, west of Alder Creek, within a  
portion of the NE1/4NW1/4 Sec. 18, T35N, R7E, W.M.

**Land Use Designation:** Rural Reserve

**Summary of Proposal:** To construct an 85-foot wireless communication facility  
and install associated ground equipment. A wooden pole  
topped by six antennas will replace an existing PSE utility  
pole which is about 52 feet high. The equipment cabinets  
will be placed on a concrete slab within an adjacent fenced  
lease area.

**Public Hearing:** After reviewing the report of Planning and Development  
Services, the Hearing Examiner conducted a public hearing  
on May 10, 2006.

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

## **FINDINGS OF FACT**

1. New Cingular Wireless (applicant) seeks to install an unmanned wireless telecommunication facility on a parcel located north of O'Hara Road, east of the town of Hamilton.

2. The property is basically rectangular with the southern property line following the abandoned Puget Sound and Baker River Railroad grade. The property slopes to the south down to O'Hara Road. The site is north of State Highway 20. The zoning is Rural Reserve.

3. The subject parcel is approximately 31 acres in size, within a portion of the NE1/4NW1/4, Sec. 18, T35N, R7E., W.M. It lies in a remote area with little surrounding development. The project site is surrounded by mature deciduous and coniferous trees. The installation will be reached by a gravel and dirt accessway leading off of O'Hara Road,

4. The proposal is to erect a wooden pole in replacement of an existing Puget Sound Energy (PSE) power pole. The replacement pole will be approximately 85 feet high. The existing pole is about 52 feet high.

5. The pole will be approximately 600 feet from the west property line, 700 feet from the east property line, 500 feet from the north property line and 440 feet from the south property line.

6. The plan is to mount six antennas near the top of the new pole. They will be arrayed around the pole with two antennas per sector. They will extend about 2" above the pole. The new pole will continue as a power pole. The electrical coaxial cables will be placed inside conduits which will be attached to the surface of the pole.

7. The proposed replacement pole site is located in a gravel pit area, situated on a forested hillside. The hillside has been partially cleared for the PSE power line that runs east and west along the edge of the hill. The gravel pit operations are to the south of the PSE line.

8. The properties to the north and southwest are designated Secondary Forest – Natural Resource Lands and Agriculture – Natural Resource Lands respectively. There are few residences in the vicinity. The site is obscured because of the distance from public views and the presence of forest and undergrowth.

9. The radio cabinets are proposed to be located on a concrete slab within a fenced lease area about 20 feet southwest of the proposed pole at the top of an approximately 100-foot high steep slope. The area is covered with trees and vegetation. The equipment area will measure 16' x 28' and will be surrounded by a six-foot high

chain link fence with barbed wire at the top. The equipment compound has not been designed for additional carriers because PSE allows only one carrier on any of its poles as a general rule. The site will be visited only for monthly maintenance checks.

10. Environmental review of the application was conducted under the State Environmental Policy Act (SEPA) and a Determination of Non-Significance (DNS) was issued on March 9, 2006. The DNS was not appealed.

11. After initial review by the critical areas staff, a geologic hazard site assessment was required. A report prepared by LSI Adapt, Inc. was submitted. The report recommended that the equipment cabinets be located a minimum of 30 feet from the slope. The report also urged that the property owner provide written assurance that no mining of the pit in the vicinity of the Cingular site is planned. It was suggested that any area within the leased area that is within 30 feet of the slope should be placed in a Protected Critical Area.

12. A letter, dated March 10, 2006, was received from the mine owners stating that they do not intend to mine the pit in the vicinity of the Cingular site.

13. The purpose of the proposed facility is to allow Cingular to provide continuous service along Highway 20 and in the surrounding area. The height requested is the minimum height necessary to fulfill the site's function within the applicant's grid system. Its operation will not interfere with the transmission or reception functions of other communications facilities.

14. The location selected for the replacement pole is a site where the existing topography and vegetation provide significant screening. There is no feasible location with a higher priority location on the list of priorities set forth in the wireless facilities ordinance.

15. The replacement pole and antennas will not obstruct or diminish views from major transportation corridors or public open space. No lights will be installed. The equipment will not emit undue noise.

16. The criteria for Special Use Permit approval are set forth at 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 standards of SCC 14.16.840.

- (d) The proposed use will not generate intrusions on privacy of surrounding uses.
- (e) Potential effects regarding the general public health, safety, and general welfare.
- (f) For special uses in ... Natural Resource Lands ..., the impacts on long-term natural resource 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 and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

17. The Staff Report analyses the application in light of the above criteria and determines that, as conditioned, is will be consistent with them. The Hearing Examiner concurs with the analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

18. The public hearing was properly noticed. No adverse testimony or written comment was received on this application.

19. 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 subject matter of this proceeding. SCC 14.16.720(C)(iv).

2. The requirements of SEPA have been met.

3. Cellular towers are allowed in the Rural Reserve zone, subject to a Hearing Examiner Special Use Permit. SCC 14.16.320(4)(cc). The special use criteria, in effect, require compliance with the provisions of the Personal Wireless Service Facilities ordinance, SCC 14.16.720.

4. The wireless facilities ordinance recognizes the need for towers/antennas to serve the wireless communications needs of County residents. At the same time, it seeks

to minimize adverse visual impacts of towers through careful design, siting, and screening.

5. One means to reduce visual impacts is to reduce the number of towers. Co-location is a means to this end. Locating antennas on power poles, as in the instant case, serves the same purpose. Here no new stand-alone tower need be built. Moreover, visual impacts are reduced by placing the antennas in an existing utility corridor.

6. The facts support a conclusion that the proposal is consistent with the provisions of SCC 14.16.720.

7. Further, the facts support a conclusion that the proposal, as conditioned, will be consistent with all of the special use criteria. SCC 14.16.900(2)(b)(v).

8. 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. All other required permits shall be obtained.

3. The applicant shall comply with all applicable requirements of the County Code.

4. The applicant shall follow the recommendations of LSI Adapt, as set forth in its February 23, 2006, geotechnical evaluation.

5. The equipment cabinets shall be located a minimum of 30 feet from the slope. If a new site for the cabinets is selected to meet this requirement, revised drawings showing the installation at the new site shall be submitted.

6. No gravel mining that will disturb the slope around the area of the equipment cabinets shall occur.

7. Prior to issuance of a building permit, any area inside the leased area that is within 30 feet of the slope shall be placed in a Protected Critical Area (PCA).

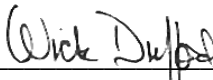
8. Temporary erosion/sedimentation control shall be used during construction pursuant to Chapter 14.32, Drainage Ordinance.

9. The applicant shall comply with SCC 14.16.870, Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.

10. A copy of this permit shall be submitted with the building permit application.
11. Prior to issuance of a building permit, any additional review fees shall be paid.
12. This permit shall be void if the use permitted has not been established or a complete building permit filed within two years of the permit approval.
13. Failure to comply with any condition may result in permit revocation.

### **DECISION**

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

  
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Wick Dufford, Hearing Examiner

Date of Action: May 30, 2006

Date Transmitted to Applicant: May 30, 2006

### **RECONSIDERATION/APPEAL**

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services 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 Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.