

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Verizon Wireless  
c/o Sarah Telschow  
RealCom Associates  
14432 SE Eastgate Way, Suite 260  
Bellevue, WA 98007

**File No:** PL07-0664

**Request:** Waiver of Forest Practice Moratorium

**Location:** Approximately 1,575 feet east of the terminus of McMurray Shore Drive, within a portion of Sec. 30, T33N, R5E, W.M.

**Parcel No:** P18310

**Land Use Designation:** Secondary Forest – Natural Resource Lands

**Summary of Proposal:** To obtain a waiver of the six-year development moratorium on the site leased for a wireless communications tower. The tower will be a 134-foot monopole within a 1,550 square-foot fenced compound.

**Public Hearings:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on November 28, 2007.

**Decision:** The application is approved.

## **FINDINGS OF FACT**

1. Verizon Wireless seeks a Waiver of Forest Practice Moratorium on property where it hopes to erect a cell tower.

2. The tower site is located at an elevation of 730 feet near the top of a hill located about ½ mile northeast of Lake McMurray. The leased area includes a 1,550 square foot fenced compound located approximately 1,575 feet east of the terminus of McMurray Shore Drive, within a portion of Sec. 30, T34N, R5E, W.M.

3. The proposed telecommunications tower will be a monopole of 134 feet. The sides of the hill are relatively steep, ranging from 25% to 55%. The site is accessible by a forest road that has been abandoned approximately 1/3 mile from the proposed compound.

4. Nearby Lake McMurray is an area of increasing residential development. However, the parcel on which the tower site lies has been managed for timber production and such use is intended to continue elsewhere on the property. The parcel is within lands designated as Secondary Forest-Natural Resource Land. The Washington State Department of Natural Resources is the owner of the property.

5. The surrounding land uses are forestry and rural residential. The area north and east of the subject site is heavily forested. The areas to the south and west contain forest but have a higher density of residential development.

6. The tower site is within a larger area that is the subject of an active Forest Practice Permit under which a moratorium on development was imposed. The tower site is within a clear cut. Merchantable timber has also been harvested down slope of the proposed tower location with some slash and stumps remaining.

7. The property was reviewed for Critical Areas Ordinance compliance. Two types of critical areas were identified within 200 feet of the site: wetlands and geologic hazard areas. Observations showed that no timber has been harvested within the wetlands and associated buffers. However, timber has been removed from suspected landslide hazard areas. Because of this, the applicant commissioned and submitted a Geologically Hazardous Area Site Assessment.

8. The Assessment describes the immediate tower pad as a nearly level area created by previous logging. The leased area sits on a bench at the top of a small rock ridge. The slopes on both sides of the ridge at the site are uniform and have a relatively even gradient downslope of 45 to 55 percent. A small area of gentler slope of 25 to 30 percent is located about 60 feet southwest of the leased area.

9. No areas of slope movement, instability, or sloughing were observed on any of the slopes within a 200-foot radius of the tower site. No springs or seeps were noted. The Assessment concluded there is no significant chance of any moderate to deep-seated slope movements occurring on the rock slopes.

10. The site is underlain by hard bedrock at shallow depth. Foundations for the tower structure will consist of either a drilled shaft cut into the rock or large spread footings. The Assessment concludes that the native glacial soils and bedrock materials are suitable to support the loads anticipated. The tower pad presents no slope stability issues.

11. The Assessment expresses the opinion that the site conditions do not warrant any additional mitigation measures or buffer setbacks relating to the defined geologic hazard areas.

13. The criteria for lifting a development moratorium require that critical areas be capable of restoration to pre-timber-harvest condition within six years under the terms of a Mitigation Plan.

14. Based on the technical review, it is apparent that the timber harvest activities have not had a significant adverse impact on the stability of the slopes and that no time is needed for recovery of any critical area to a state comparable to what it was before the forest harvest took place. There is, therefore, no need for a mitigation plan

15. There was no public testimony at the hearing. Once comment letter was received. The letter asked for careful review of the geologically hazard areas, and, if the waiver is approved, encouraged a “town meeting” at the fire hall where Lake McMurray residents could be informed about the proposal.

16. The Staff recommends approval of the waiver application.

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 the persons and subject matter of this proceeding.

2. The facts support a conclusion that the application has met the criteria for waiver of the development moratorium in relation to the cell tower project and site. SCC 14.24.110(6).

3. The lifting of the moratorium means only that the applicant is free to pursue an application to construct the tower. The project must be reviewed on its merits as a special use and receive a Special Use Permit before construction can proceed.

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

### **DECISION**

The application for Waiver of Development Moratorium is approved. The moratorium is hereby lifted within the site leased for the telecommunications tower, and as necessary to access that site for construction purposes.



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Wick Dufford, Hearing Examiner

Date of Action: December 4, 2007

Date Transmitted to Applicant: December 4, 2007

### **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.