

**BEFORE THE HEARING EXAMINER
FOR SKAGIT COUNTY**

In the Matter of the Application of)	Nos. PL23-0128; PL23-0128
)	
Nancy Sears, on behalf of)	AT&T Macro Cell Tower
Smartlink Group / AT&T)	Special Use Permit and Variances
)	
)	FINDINGS, CONCLUSIONS,
<u>For a Special Use Permit</u>)	AND DECISION

SUMMARY OF DECISION

The request for a Special Use Permit and Variances to construct a 113.5-foot-tall macro cell tower (personal wireless facility), enclosed within a 117.5-foot-tall faux silo structure, with associated ground equipment and fencing, located within a 50- by 25-foot leased area of an unaddressed private property located at the intersection of Avon Allen Road and State Route 20, is **APPROVED**. Conditions are necessary to address specific impacts of the proposed project.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on July 26, 2023, using remote access technology.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Kevin Cricchio, Skagit County Senior Planner
Sharon Gretch, Applicant Representative
Greg Kahn
Gerald Stevenson

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report and Hearing Examiner Memo, undated
2. Application Materials
 - a. Project Narrative, undated (PDF 21)
 - b. Special Use Permit Application with Attachments, dated February 20, 2023
 - c. First Statement of Code Compliance, undated (PDF 48)
 - d. Nine Photo Simulations with Aerial Imagery, undated
 - e. Variance Application, dated March 3, 2023

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- f. Second Statement of Code Compliance, undated (PDF 92)
- g. Skagit Avon RF Justification, undated
- h. Site Plans, revised November 9, 2022
- 3. Assessor's Parcel Information and GIS Images, undated
- 4. Notice of Development Application and List of Landowners within 300 Feet, undated
- 5. Three Public Comments, various dates
- 6. Agency and Departmental Comments, various dates
- 7. Applicant's Response to Public Comments, dated May 2, 2023
- 8. SEPA Mitigated Determination of Nonsignificance, issued May 9, 2023
- 9. Notice of Public Hearing, List of Parties of Record, undated

During the hearing, witnesses Kevin Cricchio and Sharon Gretch offered PowerPoint presentations as exhibits, which the Hearing Examiner admitted as exhibits. The Hearing Examiner noticed that certain materials referenced in the application, Exhibit 2, appeared to be missing from Exhibit 2. He requested three of those materials be provided: the SEPA checklist, a noise report, and a stormwater report. The missing materials were provided shortly after the hearing and were admitted as exhibits:

- 10. Presentation of Kevin Cricchio, presented July 26, 2023
- 11. Presentation of Sharon Gretch, presented July 26, 2023
- 12. SEPA Checklist with Attachments, dated June 16, 2022
- 13. Noise Report, prepared by SSA Acoustics, dated June 7, 2022
- 14. Stormwater Site Plan Report, prepared by Duncanson Company, Inc., dated November 23, 2022

The Hearing Examiner enters the following findings and conclusions based upon the testimony at the open record hearing and the admitted exhibits:

FINDINGS

Application and Notice

- 1. Nancy Sears, on behalf of Smartlink Group, itself acting on behalf of AT&T (collectively, "Applicant"), requests a Special Use Permit (SUP) to construct a 113.5-foot-tall macro cell tower (personal wireless facility), enclosed within a 117.5-foot-tall faux silo structure. The cell tower would host up to 12 radio antennas, 18 remote radio heads, and three surge suppressors, with assorted cables. Ground equipment would include a 30-kilowatt diesel generator and a two-bay equipment cabinet to host batteries, additional radios, and associated equipment. The Applicant also seeks a variance to allow the cell tower to exceed maximum height limits in its zone, as well as a variance to allow the project to forgo required landscaping. Instead of landscaping, the Applicant proposes a 7-foot 8-inch fence surrounding the project site, with a locked gate. The cell

tower, faux silo, ground equipment, and fence would be sited on a 50- by 25-foot¹ section of an existing, privately owned farm located at the intersection of Avon Allen Road and State Route 20. The subject property does not have an address. Its tax parcel numbers are P21394 and P21396. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 2.*

2. Skagit County (County) determined that the application was complete on March 28, 2023. On April 13, 2023, the County published a Notice of Development Application (with the SEPA comment period) in the *Skagit Valley Herald* newspaper and mailed notice to all adjacent property owners within 300 feet of the subject property. The Notice of Application included a 15-day comment period, ending April 28, 2023. On July 6, 2023, the County published a Notice of Public Hearing for the application and mailed that notice to parties of record. *Exhibit 1, Staff Report, pages 2 and 4; Exhibit 4; Exhibit 9.*
3. The County received three public comments during the public comment period. Two comments, apparently from two different anonymous senders, but worded identically, expressed shock that a non-agricultural use would be allowed on such prime agricultural land, especially given that the property was purchased in 2012, eleven years ago. One comment raised unspecified aesthetic concerns about the tower, as it would be clearly visible from nearby land. *Exhibit 1, Staff Report, page 4; Exhibit 5.*
4. The County received internal comments from its own departments. A building official noted that the property is in a flood hazard zone. The building official suggested that the hydrostatic pressure of the foundation should be considered and that all structural elements of the proposal should be elevated above the expected flood level. The Natural Resources Department noted that critical areas review had already been completed under a separate project file (PL23-0144), and no critical areas were found within 250 feet of the proposed project. The Port of Skagit (Port), which operates the nearby Skagit Regional Airport, wrote a comment stating that Skagit County's airport environs overlay would apply, under Skagit County Code (SCC) 14.16.210. The Port reviewed the relevant Federal Aviation Administration (FAA) requirements for structures within the airport computability zones (incorporated by reference in Skagit County's airport environs overlay) and found that, under FAA Regulations Part 77 and Regulation 7460-1, the maximum allowable height in this site would be 240 to 260 feet, with any structure over 165 feet triggering additional review by the FAA, itself. The Port also noted that, for structures subject to Federal Communications Commission licensing requirements, notice to the FAA must be submitted on or before filing an application with the FCC, and

¹ Some materials in the record, including the staff report, indicate a 40- by 40-foot leased area, but the Applicant's most recent site plans, including Sheet A-2, revised November 9, 2022, show a 50- by 25-foot area. The Applicant's PowerPoint presentation, presented at the July 26, 2023, hearing also shows a 50- by 25-foot area on Slide 4. The County's PowerPoint presentation of July 26 also shows a 50- by 25-foot area on Slide 13. *Exhibit 2; Exhibit 10; Exhibit 11.*

that any proposed stormwater facilities must incorporate FAA and Washington State guidance for stormwater facilities near airports. The Port also asked to review future modification to the project and be allowed to comment on potential impacts to air navigation. Other than the County's own departments and the Port, no other agency commented, including the Washington State Department of Ecology, the Aviation Division of the Washington State Department of Transportation, or the Sauk-Suiattle Indian Tribe. *Exhibit 1, Staff Report, pages 4 through 6; Exhibit 6.*

5. The Applicant responded to the public comments by saying that the proposal would minimize the disturbance to farmland and would visually blend in with the surrounding agricultural land thanks to the faux silo structure. The portion of the property where the facility is proposed is not being farmed at the present time. The Applicant explained that the proposed tower is necessary to fill an existing gap in cell phone coverage and to allow existing, overloaded facilities in the vicinity to offload some of their excess traffic onto the proposed tower. *Exhibit 7.*

State Environmental Policy Act

6. The County Planning and Development Services Department acted as lead agency and analyzed the environmental impact of the proposal, as required by the State Environmental Policy Act (SEPA), chapter 43.21C RCW. The County consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a SEPA comment deadline of April 28, 2023. Other than the public comments received on the proposal (summarized above), the County did not receive comments specific to its SEPA review. The County reviewed the Applicant's environmental checklist and other information on file and determined that, with mitigation conditions, the proposal would not have a probable significant adverse impact on the environment. Accordingly, on May 9, 2023, the County issued a Mitigated Determination of Nonsignificance (MDNS) with six mitigation measures and an appeal deadline of May 25, 2023. The MDNS was not appealed. *Exhibit 1, Staff Report, pages 4, 14, and 15; Exhibit 4; Exhibit 8.*

Comprehensive Plan, Zoning, and Surrounding Uses

7. The subject property lies in the Agricultural Natural Resource Lands (Ag-NRL) land use designation. The Skagit County Comprehensive Plan describes Ag-NRL lands thus:
Agricultural Resource Lands are those lands with soils, climate, topography, parcel size, and location characteristics that have long-term commercial significance for farming. Skagit County designates agricultural lands primarily based on the presence of prime agricultural soils.

...

Based on the designation criteria presented in Chapter 4, Natural Resource Lands, Skagit County has designated an estimated 88,564 acres of land as

Agricultural lands, although significantly fewer acres are in full agricultural production in any given year. Designating valuable agricultural soils protects the resource for future use, regardless of current farming conditions. Designating also ensures a cohesive and distinct agricultural area within Skagit County, and limits the extent to which non-agricultural uses can conflict and interfere with farming.

Comprehensive Plan, page 106.

The Comprehensive Plan then goes on to list goals and policies that apply in the Ag-NRL land use designation, most of which are aimed at preserving the land for farming purposes. *Comprehensive Plan, pages 118–126.* In particular, the Comprehensive Plan states:

Land uses allowed on designated agricultural land shall promote agriculture, agricultural support services, and promote diverse agricultural industries. [*Goal 4A-4*]

Agricultural Production: Agricultural production is the highest priority use in designated agricultural resource lands. [*Goal 4A-4.1*]

Comprehensive Plan, page 124.

The staff report did not include any analysis of the proposal's compliance or non-compliance with the Comprehensive Plan, beyond simply noting the land use designation of the subject property. *Exhibit 1, Staff Report, pages 2 and 4.*

8. The subject property is zoned Ag-NRL. Within the zone, personal wireless facilities (PWF) are allowed as an administrative special use. *SCC 14.16.400(3)(h)*. If a PWF will exceed the maximum allowable height in the zone, then both a special use permit and a variance are required. *SCC 14.16.720(2)(a) and (22)(c)*. A PWF must meet all the criteria set forth in *SCC 14.16.720*. As part of its application, the Applicant submitted two statements of code compliance, addressing the project's compliance with the special use permit approval criteria, the variance approval criteria, the general zoning regulations set forth in *SCC 14.16.400*, and the special regulations for PWF set forth in *SCC 14.16.720*. During the hearing, Senior Planner Kevin Cricchio indicated that County staff had reviewed the Applicant's statements of code compliance and agreed with the Applicant's analysis. The Applicant's analysis identified the following ways in which the project will comply with the following relevant criteria in *SCC 14.16.400* and *.720*:
 - Dimensional setbacks: Front, 35 feet. Side, 15 feet. Rear, 35 feet. *SCC 14.16.400(5)(a)*. The project will have setbacks of 122 feet, 459 feet, 165 feet, and 973 feet.
 - Maximum height: 40 feet, except as regulated in *SCC 14.16.720* in the case of PWF. *SCC 14.16.400(5)(b)*. As noted, the Applicant seeks a variance in accordance with *SCC 14.16.720*.

- Minimum lot size: 1/16th of a section of land or 40 acres. *SCC 14.16.400(5)(c)*. The Applicant argued, without citation, that this requirement does not apply, because the lot is pre-existing.
- Design Requirements: Non-wooden poles must be painted a color that best allows them to blend into the surroundings. The use of grays, blues, greens, bronze, browns, or other site-specific colors are encouraged and may be appropriate, however each case will be evaluated individually. *SCC 14.16.720(7)(b)(i)*. The Applicant's facility will be concealed within a faux silo, which will be painted a light gray to resemble other silos in the vicinity.
- Design Requirements: The antenna must be architecturally compatible with the building or wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact. *SCC 14.16.720(7)(b)(ii)(A)*. The antennas will be concealed by the faux silo.
- Design Requirements: The antenna must be no taller than the minimum height required to function satisfactorily unless it is approved in writing by the County. *SCC 14.16.720(7)(b)(ii)(B)*. The Applicant submitted a "Skagit Avon RF Justification," which shows that the proposed antenna is no taller than required.
- Design Requirements: Equipment shelters and cabinets and other on-the-ground ancillary equipment must be screened with landscaping (except for those in the right-of-way) or with another design as required by the County code. Alternatively, where feasible, and if more compatible with the surrounding environment, the Applicant shall incorporate the cabinet and other equipment into the base of a new pole (for example, for a small wireless facility) provided there is adequate space in the right-of-way. *SCC 14.16.720(7)(b)(iii)*. The proposed ground equipment will be surrounded by a 7-foot 8-inch cedar fence and is additionally screened from the roadway by the existing barn to the north of the tower site.
- Design Requirements: Security lighting for the equipment shelters or cabinets and other on the ground ancillary equipment is allowed, as long as it complies with the County code. *SCC 14.16.720(7)(b)(iv)*. The Applicant promised that any security lighting will be down shielded and will comply with the code.
- Design Requirements: All towers, poles, antennas, and related equipment must meet current standards and regulations of the FAA, the FCC, and any other agency of the federal or state governments with relevant regulatory authority. *SCC 14.16.720(7)(b)(v)*. The Applicant promised that the facility will comply with all federal and state requirements.
- Design Requirements: All towers, poles, antennas, and related equipment in or near residential zones must be sited and designed to minimize adverse visual impacts on surrounding properties and the traveling public to the greatest extent reasonably possible, consistent with the proper functioning of the towers, poles, antennas, and related equipment. Such towers, poles, antennas, and equipment must be integrated through location and design to blend in with the existing

characteristics of the site. Such towers, poles, antennas and equipment enclosures must also be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings, or be reasonably compatible with the built environment through matching and complementary existing structures and specific design considerations, such as architectural designs, height, scale, color and texture, or be reasonably consistent with other uses and improvements permitted in the relevant zone. *SCC 14.16.720(b)(viii)*. The Applicant's faux silo will fully conceal the tower. The silo will be 117.5 feet tall and approximately 20 feet in diameter and will be painted a non-reflective color to blend with other silos in the area.

- The Applicant must use stealth design to the maximum extent feasible unless otherwise approved by the County. Stealth and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design must be designed and constructed to substantially conform to surrounding building designs or natural settings. Stealth design that relies on screening to reduce visual impact must screen all substantial portions of the facilities and equipment from view. *SCC 14.16.720(7)(b)(ix)*. Again, the faux silo satisfies this requirement. The Applicant submitted a sheaf of visual simulations to depict the proposed silo in relation to its environment.
- Landscaping Plan: A landscaping plan must be provided indicating the specific placement of the facility on the site. Trees and other significant site features, the type and location of plant materials used to screen the facility, and the proposed color(s) of the facility shall also be indicated. *SCC 14.16.720(18)(b)(v)*.² The Applicant requested a variance to this requirement. That request will be discussed in more detail below.
- Service Area Map: A current map must be provided showing the location of the proposed tower, the locations and service areas of other wireless service facilities operated by the provider, and those proposed by the Applicant that are close enough to impact service within the County. *SCC 14.16.720(18)(b)(vi)*. The Applicant submitted a map showing the proposed tower's relationship to other towers in the area. The proposed tower is a "capacity site," designed to offload traffic from the Applicant's existing towers. It will also provide new coverage to areas currently not covered by AT&T.
- Co-location Statement: A signed statement by the Applicant or owner, as applicable, states whether construction of the tower will accommodate co-location of additional antenna(s) for future users. In addition, the Applicant or owner must include a signed statement that it will diligently negotiate in good faith to facilitate co-location of additional wireless service facilities by other providers on the tower or within the same site location. Also, a narrative of an attempt to co-

² Specific requirements that the landscaping plan must meet are set forth in *SCC 14.16.720(20)(e)*.

locate must be included which shows the Applicant has made a diligent attempt to mount the facilities on an existing tower or structure that is within a one-mile radius of the chosen site. *SCC 14.16.720(b)(vii)*. The only other suitable structure in the vicinity is a grain elevator located along SR 20. The Applicant attempted to negotiate with the owner to locate its facility on the grain elevator, but the owner was unwilling. The Applicant will allow other cell carriers to co-locate on its facility, once complete.

- Frequency Interference: Antennas may not cause localized interference with the reception or transmission of any other communications signals including, but not limited to, public safety, broadcast television, cable television, or radio broadcast signals. *SCC 14.16.720(20)(d)*. The Applicant's "Skagit Avon RF Justification" indicates there will be no interference.
- Fencing: Security fencing no less than 6 feet in height with access through a locked gate shall be required around each tower and its related equipment and support structures. *SCC 14.16.720(20)(j)*. The Applicant proposes a cedar fence 7 feet 8 inches in height with a locked gate.
- Parking: If the cell site is not fully automated, adequate parking must be provided for maintenance workers. If the site is automated, other arrangements for adequate off- street parking shall be made and documentation thereof provided to the County. *SCC 14.16.720(20)(k)*. This is an unmanned facility. Most of the maintenance is automated, but some maintenance may occur on-site. In those instances, there is adequate parking to the east of the leased area.
- Structural Standards: Macro cell towers used for commercial purposes must meet the requirements of TIA 222 Rev H, and documentation evidencing such compliance must be submitted with the special use permit application. Included in the submittal shall be a Washington-licensed PE stamped foundation and structural drawing, as well as a PE stamped structural analysis (the loaded tower drawing with all antennas and hardware in place and the wind loading calculations). Upon completion of construction, the macro cell tower will be inspected by a third-party professional at the expense of the tower owner. *SCC 14.16.720(22)(b)*. The Applicant has proposed that the structural drawings requested in this section be deferred to the building permit phase.
- Setbacks: If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to 110 percent of the distance from the top of the structure to the breakpoint level of the structure, or the applicable zone's minimum side setback requirements, whichever is greater. For example, on a 100-foot-tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) or the minimum side-yard setback requirements for that zone, whichever is greater. If an applicant proposes to use breakpoint design technology to reduce the required setback, the issuance of a permit for the tower shall be conditioned upon approval of the tower design by a Washington-licensed

professional engineer. *SCC 14.16.720(22)(e)(ii)(B)*. As noted above, the Applicant's tower is 117.5 feet tall, and the closest setback is 122 feet.

- Separation: Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of one-half mile. Self-supporting lattice or guyed towers shall be separated from all other self-supporting lattice or guyed towers by a minimum of one mile. *SCC 14.16.720(22)(f)*. The nearest towers are 1.5 miles from the subject property.
- Preferred Macro Cell Tower Location. All new macro cell towers are permitted only after applying the following siting priorities, ordered from most-preferred to least-preferred: Industrial zones, manufacturing zones, commercial zones, other non-residential or non-agricultural zones, parcels of land in residential zones, parcels of land in agricultural zones, and designated historic districts. *SCC 14.16.720(22)(j)*. The Applicant claims to have reached out to Skagit Farmer's Supply and other landowners in the NRI and RB zones, but they declined. The Skagit County Golf and Country Club in a residential zone was interested in hosting a new tower, but required setbacks could not be met. There were no manufacturing, commercial, or other non-residential or non-agricultural zones in the search area. Thus, an agricultural location was the only choice.

Exhibit 1, Staff Report, page 7; Exhibit 2; Exhibit 3.

9. The subject property is a 19.9-acre parcel adjacent to Avon-Allen Road and SR 20. The property is in active farming use. A farm building is approximately in the middle of the property, with the 50- by 25-foot leased area proposed to be directly behind the farm building. Access across the property to the leased area would be by way of an easement, which would be gated. *Exhibit 2; Exhibit 11; Testimony of Kevin Cricchio.*
10. To the north, across SR 20, adjacent properties are zoned Ag-NRL and Rural Business. They are developed with commercial businesses and single-family residences. To the south, adjacent properties are zoned Ag-NRL. They are developed with farmland and single-family residences. To the east, across Avon Allen Road, adjacent properties are zoned Ag-NRL and Rural Reserve. They are developed with farmland and single-family residences. To the west, adjacent properties are zoned Ag-NRL and developed with farmland. The nearest residences are approximately 250 to 300 feet away from the proposed tower site. *Exhibit 1, Staff Report, page 2; Exhibit 2; Exhibit 3; Exhibit 10; Testimony of Kevin Cricchio.*

Noise Study

11. The Applicant submitted a noise study as part of its application. The noise study is dated June 7, 2022. The noise study evaluated ambient noise conditions and estimated what noise levels would be generated at adjacent property lines if the proposed ground equipment were to be installed. (Ground equipment, as opposed to the towers and antennas, is the main source of noise for PWF.) The noise study first noted the applicable

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noise limits under Washington Administrative Code (WAC) 173-60 (incorporated by reference in SCC 9.50.040). According to the noise study, noise emitted by a commercial use, and received at a residential use, is subject to a 57 dBA limit during daytime hours and 47 dBA during nighttime hours. These limits may be exceeded by 5 dBA for a 15-minute period during any one-hour period. Therefore, the generator must not exceed 62 dBA during maintenance testing. The generator is exempt from noise limits during emergency operation, according to the noise study, although it did not provide a citation or argument on this point. *Exhibit 13*.

12. The noise study determined that ambient noise at the proposed tower location is already 65 dBA, due primarily to traffic on nearby roads. The noise study determined that the equipment cabinet generates a noise level of 65 dBA at a distance of five feet, or 47 dBA at a distance of 42 feet, which the noise study identified as the nearest property line.³ The generator would generate a noise level of 65 dBA at a distance of 23 feet, or 60 dBA at a distance of 42 feet, which, again, the noise study identified as the nearest property line. *Exhibit 13*.

Stormwater Report

13. The Applicant submitted a stormwater report prepared by Duncanson Company, Inc. The stormwater report identified best management practices to stabilize soils but concluded that no flow control or other treatment measures were required, given the small footprint of the project. *Exhibit 14*.

Special Use Permit

14. Staff reviewed the application against the criteria for a special use permit and made the following observations:
 - The proposed macro cell tower will be compatible with all sections of Skagit County code, including but not limited to the underlying Agricultural Natural Resource Lands Zoning District, under SCC 14.16.400, and SCC 14.16.720, which regulates towers and small wireless facilities. Personal wireless service towers are an allowed use in the Agricultural Natural Resources Lands Zone with an approved Hearing Examiner Special Use Permit under SCC 14.16.720(22)(a).
 - County staff agrees with the Applicant's code compliance statements (described above). Staff agreed that a variance would be required.
 - Once constructed on-site, the proposed macro cell tower will not create any undue noise, odor, heat, vibration, or air or water pollution impacts on surrounding, existing, or potential dwelling units.
 - The proposed macro cell tower will not generate intrusions on privacy of surrounding uses. The structure is being proposed as a faux agricultural silo that

³ It is unclear why the June 2022 noise study used 42 feet as the nearest property line, when the November 2022 final site plan revision shows the nearest property line as 122 feet from the tower lease area. *Exhibit 2; Exhibit 13*.

will visually blend in with the surrounding agricultural appearance of the area and reduce visual intrusions.

- The construction of the proposed macro cell tower will not cause any adverse effects to the public's health, safety, or general welfare.
- The proposed macro cell tower will not have any adverse impacts on the long-term natural resource management and production of adjacent Agricultural Natural Resource Lands zoned land.
- The proposed macro cell tower will not be in conflict with the community's health or safety.
- The proposed macro cell tower does not require use of public facilities or services and will not adversely affect public services to the surrounding areas.
- The macro cell tower will be silo shaped and will fit into and maintain the agricultural character, landscape, and lifestyle of the rural area that surrounds it.

Exhibit 1, Staff Report, pages 7 to 10.

Variance

15. As noted above, the Applicant seeks a variance to the height limit and a variance to forgo required landscaping. In lieu of landscaping, the Applicant proposes a 7-foot 8-inch fence around the tower, silo, and ground equipment. Staff reviewed the application against the criteria for a variance and made the following observations:

- According to the Applicant's narrative, the proposed tower height of 117.5 feet is the minimum necessary to achieve AT&T's coverage objective and to provide additional space for additional carriers to meet the County's goal of decreasing the need for future cell towers. The proposed variance to both the landscape requirement for macro cell towers and the maximum permitted height in the underlying Agricultural Natural Resource Lands Zoning District will make it possible for the reasonable use of the land while building a Macro cell tower on-site.
- The granting of the variance request will be in harmony with the general purpose and intent of this Skagit County Code and chapter 14.16 SCC, Zoning. The granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to public welfare.
- A recent code amendment (Ordinance 020220012) to SCC 14.16.720 regulating tower and small wireless facilities requires applicants wishing to construct a macro cell tower to obtain a variance if they wish to exceed the maximum permitted height in the underlying zone. Without obtaining a variance, the siting of most macro cell towers in Skagit County would not be feasible if they were limited to the maximum permitted height for the respective zoning district. Furthermore, because there is active farmed agricultural land near where the proposed macro cell tower would be located, any required landscaping would encroach into the agricultural land. Accordingly, the requested variance arises from special conditions and circumstances, including topographic or critical area

constraints that are peculiar to the land, structure, or building involved and are not ordinarily found among other lands, structures, or buildings in the same district.

- The special conditions and circumstances do not result from the actions of the Applicant.
- The literal interpretation of the bulk requirements of SCC 14.16.400 regulating the underlying zone would prevent the Applicant from constructing the proposed macro cell tower on-site and deprive the Applicant of rights commonly enjoyed by other properties. Additionally, the literal interpretation of the landscaping requirement for macro cell towers, under Skagit County Code 14.16.720(20)(e), would require the encroachment of landscaping into active and productive agricultural farmland.
- The granting of the variance would not confer on the Applicant any special privilege that is denied by Title 14 and 15 SCC to other lands, structures, or buildings in the same district.

Exhibit 1, Staff Report, pages 10 through 14.

Testimony

16. Kevin Cricchio, County Senior Planner, testified generally about the application, SUP criteria, and variance criteria. He testified that the Department of Ecology was notified of the proposal and did not provide any comment. The Washington State Department of Transportation's Aviation Division commented only to say that they had no substantive comment. The County's Building Department commented that the project would need to be elevated off the ground one foot, because it is in a designated floodplain. Public Works commented that a commercial access permit would be required.

Mr. Cricchio displayed the Applicant's simulated renditions of the faux silo structure to demonstrate that it is visually compatible with the surrounding agricultural, commercial, and residential uses. He testified that the nearest residence to the proposed tower would be, in his estimation, approximately 250 to 300 feet away. Access to the tower would occur via an easement across the property. The easement would be gated, but no public roads would be gated.

Mr. Cricchio acknowledged that some sections of the County code could be read to imply that the special use permit would go before the Board of County Commissioners, such as SCC 14.16.720(22)(d) and (h). He said the code should actually be read to put the matter before the Hearing Examiner. Mr. Cricchio agreed with the Applicant's zoning compliance analysis provided in the application. He testified that it would be fine for the Applicant to submit engineering documents to show compliance with TIA 222 Revision H during the building permit phase, which he testified had not yet begun. He said it was possible that the siting of the tower could be altered during the special use permit phase, so it makes sense to defer the engineering drawings until after the special use permit is approved.

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In response to public testimony (summarized below), Mr. Cricchio noted that the faux silo would be painted a neutral color and would not have a light on top. The Port of Skagit had reviewed the structure for aviation concerns and had found none because its height would be under 165 feet. He testified that the silo would fit well with the surrounding agricultural uses. *Testimony of Kevin Cricchio.*

17. Sharon Gretch, Applicant Representative, testified that Smartlink represents AT&T for this application. Ms. Gretch estimated the nearest residence to be about 280 feet from the proposed tower. Other residences would be 450 to 500 feet away. Ms. Gretch testified that the leased area would be 50 by 25 feet. She testified that the silo would be designed to match silos in the immediate area.

Ms. Gretch testified that the new tower was necessary because the nearest AT&T tower has become overloaded with traffic. In addition, there is a gap in 4G LTE data coverage in the area. The proposed location of the tower would address both the capacity and coverage issues. She testified that, if the tower were even a little bit lower in height, for example 100 feet instead of 113 feet, coverage areas to the south would be three and a half percent less. Ms. Gretch testified that the owner of the nearby grain elevator was not interested in leasing, and no other suitable facility exists nearby.

Ms. Gretch justified the requested landscaping variance by noting that this property is productive farmland. If landscaping were to be required, then additional farming area would be lost to the landscaping. She believed the proposed 7-foot 8-inch fence would provide equal or better screening of the ground equipment.

In response to public testimony (summarized below), Ms. Gretch testified that this was the only site suitable for the tower, and that the FAA had determined the tower would not pose a hazard to aviation. She stated that Radiofrequency (RF) radiation is exempt from review, according to the FCC. *Testimony of Sharon Gretch.*

18. Greg Kahn testified that he lives adjacent to the subject property and that his family has been here for a hundred years. He objected to the faux silo on aesthetic grounds, in that it will resemble a missile silo. He also objected to the conversion of farmland to non-farming use, which he believed might not be allowed. He also wondered whether there could be a red light on top of the silo and suggested that the silo could be a hazard to aviation. He also wondered about possible RF exposure and suggested there could be some other, better location. *Testimony of Greg Kahn.*
19. Gerald Stevenson testified that SR 20 is part of the County's tourism corridor, and the proposed facility would detract from the visual quality of the corridor. He believed the silo would be an eyesore that could distract drivers, increasing the risk of traffic

accidents. He also speculated that the silo could pose a hazard to aviation. Mr. Stevenson believed a better location would be a mile or two south, or else next to the existing silo along the highway. He believed the proposed silo would not be in character with the area. *Testimony of Greg Stevenson.*

Staff Recommendation

20. Mr. Cricchio testified that the County staff recommends approval of the SUP request and variance, with conditions. The Applicant Representative did not object to the County's proposed conditions. *Testimony of Kevin Cricchio; Testimony of Sharon Gretch.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for non-administrative Special Use Permits (SUPs) as a Level II permit. The Hearing Examiner also has jurisdiction to decide requests for non-administrative variances as a Level II permit. PWF located in the Ag-NRL zone are identified as an administrative special use in the regulations for that zone, but macro cell towers are identified as a hearing examiner special use. Variances for height are also within the Hearing Examiner's jurisdiction as a Level II permit. Variances for landscaping are identified as an administrative decision, but the code allows for related decisions within a single project to be consolidated into a single process using the highest decision level of the project—in this case, the Level II SUP and height variance. Thus, the Hearing Examiner has jurisdiction over the SUP application, as well as the application for the variances to building height and landscaping. The Hearing Examiner agrees with the testimony of Mr. Cricchio that it is the Hearing Examiner, not the Board of County Commissioners, who has jurisdiction over the SUP application. Language in SCC 14.16.720(22)(d) and (h) establish criteria that the Board of County Commissioners are supposed to use to evaluate SUP applications for macro cell towers, but no section of the code establishes the Board's jurisdiction over SUP applications in the first place. The Hearing Examiner concludes that these criteria were meant to apply to the Hearing Examiner's review of SUP applications, for which the code does provide jurisdiction. *Chapter 14.06 SCC; SCC 14.06.040(4); SCC 14.06.060; SCC 14.10.020(1) to (3); SCC 14.16.400(3); SCC 14.16.720(22)(a); SCC14.16.900(1)(b)(ii).*

Criteria for Review

Applications for Special Use Permits must demonstrate that the proposed activity will not adversely affect or prevent those uses normally allowed within the respective district. *SCC 14.16.900(1)(a).*

The burden of proof shall be on the applicant to provide evidence in support of the application. The criteria for approval or denial shall include the following:

- (A) The proposed use will be compatible with existing and planned land use.
- (B) The proposed use complies with the Skagit County Code.

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- (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) The proposed use will not cause potential adverse effects on the general public health, safety, and welfare.
- (F) For special uses in Industrial Forest—Natural Resource Lands, Secondary Forest—Natural Resource Lands, Agricultural—Natural Resource Lands, and Rural Resource—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 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.
- (I) The proposed use will maintain the character, landscape and lifestyle of the rural area. For new uses, proximity to existing businesses operating via special use permit shall be reviewed and considered for cumulative impacts.

SCC 14.16.900(1)(b)(v).

Applications for a variance are subject to the following criteria:

- (a) The variance complies with any relevant variance criteria found in other sections of Skagit County Code.
- (b) The variance is the minimum variance that will make possible the reasonable use of land, building, or structure.
- (c) The granting of the variance will be in harmony with the general purpose and intent of this Title and other applicable provisions of the Skagit County Code, and will not be injurious to the neighborhood, or otherwise detrimental to public welfare.
- (d) For all Level II variances and all setback variances:
 - (i) The requested variance arises from special conditions and circumstances, including topographic or critical area constraints, which are peculiar to the land, structure, or building involved and which are not ordinarily found among other lands, structures, or buildings in the same district.
 - (ii) The special conditions and circumstances do not result from the actions of the applicant.

- (iii) Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Title and SCC Title 15.
- (iv) The granting of the variance requested will not confer on the applicant any special privilege that is denied by this Title and SCC Title 15 to other lands, structures, or buildings in the same district.

SCC 14.10.040(1).

In addition, applications for SUPs and height variances relating to macro cell towers must be considered in light of the following criteria:

- (i) Nature of uses on adjacent and nearby properties;
- (ii) Surrounding tree coverage and foliage;
- (iii) Design of the macro cell tower that has the effect of reducing or eliminating visual obtrusiveness;
- (iv) No existing structures are located within the geographic area which meet the applicant's engineering requirements;
- (v) Existing structures do not have sufficient structural strength to support the applicant's proposed antennas and related equipment; and
- (vi) The applicant demonstrates that there are other limiting factors not enumerated herein that render existing towers, poles and other structures unsuitable.

SCC 14.16.720(22)(d).

The criteria for review adopted by the Skagit County Board of County Commissioners are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

1. **With conditions, the proposed use would comply with the criteria for a special use permit under SCC 14.16.900.** The County provided reasonable notice of the application and public hearing. The County performed the environmental review required by SEPA and determined that the proposal would not result in significant, adverse impacts to the environment. The County identified measures to mitigate the proposal's environmental impacts, which are incorporated as conditions of approval, shown below. The proposed facility will be compatible with existing and planned land uses. It is a use allowed in the Agricultural-Natural Resource Lands (Ag-NRL) zone, and the faux silo structure will be visually similar to other structures in the Ag-NRL zone, including a grain elevator similar in height and appearance located across SR 20. The character, lifestyle, and landscape of

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the agricultural zone will not be harmed by the addition of a realistic faux silo sited alongside the same highway that also hosts a grain elevator. The entire purpose of erecting the faux silo is to create visual harmony. The graphical depictions created by the Applicant demonstrate to the Hearing Examiner's satisfaction that visual harmony will be achieved, because the faux silo looks like a genuine agricultural building.

The Hearing Examiner concludes that the proposal will not result in undue noise, odor, heat, vibration, or air or water pollution. The Applicant's noise study indicates that the equipment cabinet, which is always on, will only generate 47 dBA at a distance of 42 feet. The nearest property is at least 122 feet from the leased area, so the Hearing Examiner would expect the actual noise received to be even less than 47 dBA, in compliance with the nighttime noise limit of 47 dBA from a Class B emitter to a Class A receiver. *WAC 173-60-040*. The generator is a noisier emitter, but it would not run all the time. It would only run during maintenance, which would occur during daytime, when the noise limit from a Class B emitter to a Class A receiver is 57 dBA. *WAC 173-60-040*. The noise study reveals the generator will result in 60 dBA at a distance of 42 feet, which exceeds the limit of 57 dBA. An exceedance of up to 5 dBA, however, is allowable for a total of 15 minutes every hour. Thus, so long as the maintenance test lasts less than 15 minutes, and so long as maintenance occurs during daytime, this exceedance would be allowable. Continuous use of the generator for longer than 15 minutes would violate the daytime and nighttime noise limits; the noise study indicates, however, that continuous use would only occur during an emergency. The Washington State noise regulations exempt emergency equipment when it is necessary for the "health, safety, or welfare of the community." *WAC 173-60-050(4)(f)*. The Hearing Examiner is willing to grant that an emergency generator to power a cell phone tower is probably necessary for the health, safety, and welfare of the community, and thus, the generator is exempt from noise limits during emergency operation. In addition, the Hearing Examiner notes that the noise study assumes the generator will be only 42 feet from the nearest property, instead of 122 feet. The Hearing Examiner assumes the generator's noise at the property lines will be less than what the noise study indicated. Because the equipment cabinet will comply with noise standards, and because the generator will comply with noise standards, except during emergency operation when it is exempt, the Hearing Examiner concludes there will not be "undue" noise impacts.

The Hearing Examiner does not perceive any detriment to public safety, wellbeing, or privacy resulting from the proposal. Neither the Port of Skagit nor the Federal Aviation Administration expressed any concern about impacts to aviation, although the Port has asked to be kept apprised of the project, a request that the Hearing Examiner agrees is reasonable. The Hearing Examiner does not agree with the public comment that the faux silo will be a distraction to drivers, because existing, similar facilities have not been shown to distract drivers. The tower will be unmanned, so there will be no privacy impacts.

There will be a small amount of agricultural land lost as a result of this proposal—a 50-by 25-foot area occupied by the tower, silo, and ground equipment, plus potentially a small strip lost to an access easement. However, the Applicant has taken steps to “minimize” the loss, as required by SCC 14.16.900(1)(b)(v)(F), because the Applicant has sought a variance to eliminate required landscaping that would have resulted in even more agricultural land being lost.

The Hearing Examiner agrees with Skagit County staff’s determination that the proposal will comply with the relevant code criteria (other than those for which the Applicant has sought a variance, discussed below). A strict reading of SCC 14.16.720(22)(b) would require engineering documents showing compliance with TIA 222 Rev H to be submitted at the special use permit stage, but the Hearing Examiner agrees with County staff that it is reasonable to defer engineering review to the building permit stage. The County’s reviewing engineers are in a better position than the Hearing Examiner to determine whether the engineering designs will comply with the engineering standards set forth in TIA 222 Rev H. Post-construction compliance with TIA 222 Rev H is a requirement of the building permit anyway, so it is not the case that deferring review of this issue will result in the issue being overlooked. Certainly, there is no evidence in the record to indicate that the structure *could not* comply with relevant engineering standards, and thus the Hearing Examiner concludes the project will likely be able to comply.

Lots in the Ag-NRL zone are subject to a 40-acre minimum lot size, unless a smaller lot is approved pursuant to measure that are not applicable here. *SCC 14.16.400(5)(c)*. The subject property is only 19.9 acres, so it does not meet the lot size requirement. However, a “lot of record” may be developed even if it does not meet the minimum lot size requirement, provided the lot meets one or more exceptions. *SCC 14.16.850*. The record is insufficiently developed to enable the Hearing Examiner to conclude which of the exceptions set forth in SCC 14.16.850 might apply to this proposal. The only evidence in the record is the Applicant’s assertion, in its code compliance statements, that the minimum lot size requirement in SCC 14.16.400(5)(c) does not apply because this is a “pre-existing” lot. The Applicant provided no citation or argument in support of its assertion that a pre-existing lot does not have to meet the minimum lot size requirement. At the hearing, however, Senior Planner Kevin Cricchio testified that the County agrees with the Applicant’s code compliance analysis. The Hearing Examiner concludes the Applicant and County staff must be asserting that one or more of the exceptions in SCC 14.16.850(4)(c) apply to the property, but the Hearing Examiner cannot determine which exception it might be. Accordingly, the Hearing Examiner will add a condition of approval that a building permit can only be issued if the County determines that the subject property meets the minimum lot size requirement or that one or more of the exceptions set forth in SCC 14.16.850(4)(c) apply. *Findings 1 – 20*.

2. **With conditions, the proposed use would comply with the criteria for a variance for both height and landscaping under SCC 14.10.040(1).** The variances would not allow an impermissible use, since PWF are allowed in the Ag-NRL zone. The proposed height variance is the minimum necessary to enable the tower to fulfill its purpose, because even a slight reduction in height would result in less service area being provided by the tower. The proposed landscape variance is also the minimum necessary, because any landscaping would further increase the loss of agricultural land, which the Comprehensive Plan identifies as the most important use of the Ag-NRL land. The height variance will not be injurious to the neighborhood, because tall agricultural structures are already part of the neighborhood. The landscaping variance will not be injurious to the neighborhood, because the wooden fence surrounding the leased area will be adjacent to, and partially screened by, an existing wooden farm building. The wooden fence will be visually harmonious with the wooden farm building—perhaps more so than a landscape screen would have been, given that the surrounding portion of the property is farmland. The requested variances are needed because of the special characteristics of macro cell phone towers and the necessity to preserve as much agricultural land as possible. The Applicant did not create the conditions that make the variances necessary, and literal interpretation of the height limits would preclude cell phone towers altogether from the Ag-NRL zone, which is not consistent with the County’s decision to allow them as special uses. No special privilege will be conferred by the variance that would be denied to other properties in the Ag-NRL zone. *Findings 1 – 20.*
3. **With conditions, the proposed use would comply with the additional criteria pertaining to macro cell towers under SCC 14.16.720(22)(d).** The adjacent and nearby properties are a mixture of commercial, residential, and agricultural uses. The area as a whole is predominately agricultural in character. The proposed facility would not unreasonably affect the surrounding uses because the faux silo will be realistic enough to pass as a genuine agricultural structure, similar to the grain elevator that already exists. The ground equipment will be far enough from the nearest property lines that it is likely to comply with noise limits, and in any event, the ambient noise already approaches noise limits due to the proximity of SR 20. Surrounding tree cover and foliage is sparse, because this is an active farm, but the proposed use will not affect what tree cover and foliage does exist. The structure’s visual obtrusiveness will be minimized by the faux silo. No other suitable structure exists within the Applicant’s search area (which was, itself, predicated on the Applicant’s needs to provide cell service within a defined area) because the grain elevator’s owner declined the Applicant’s request to host the antennas on the grain elevator. Existing towers in the area are insufficient to keep up with current cell phone usage. *Findings 1 – 20.*

DECISION

Based on the preceding findings and conclusions, the request for a Special Use Permit and Variances to construct a 113.5-foot-tall macro cell tower (personal wireless facility), enclosed within a 117.5-foot-tall faux silo structure, with associated ground equipment and fencing, located within a 50- by 25-foot leased area of an unaddressed private property located at the intersection of Avon Allen Road and State Route 20, is **APPROVED**, with the following conditions:⁴

1. Development shall comply with the SEPA Mitigated Determination of Nonsignificance (MDNS) that was issued on May 9, 2023, as follows:
 - A. Temporary erosion/sedimentation control measures, as approved by the Skagit County Planning and Development Services, shall be in place prior to the placement of any fill material. The Applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Stormwater Management Ordinance. Said measures shall remain in place until completion of the project.
 - B. The Applicant shall comply with both Building and Fire Code Standards. A commercial building permit is required for the construction of the proposed cellular monopole/tower.
 - C. Should any human remains, archaeological, historic, or cultural materials be discovered during construction, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and Development Services, the Washington State Department of Archeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.
 - D. The proposed Cell Tower/Personal Wireless Facility must comply with, at a minimum, Skagit County Code (SCC) 14.16.720 regulating tower and small wireless facilities regulations in unincorporated Skagit County.
 - E. Development must comply with all requirements of Skagit County's Public Works Department including but not limited to:
 - Commercial Access permit will be required for access off Avon Allen Road. Access will need to be constructed and have a final inspection prior Building Permit Final.
 - F. Development must comply with all requirements of Skagit County's Stormwater Management including but not limited to:

⁴ This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by County code.

- 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. Best Management practices shall be utilized throughout the life of the project.
 - The project will need to comply with any applicable requirements of chapters 14.22, 14.32 and 14.34 SCC.
 - The plan to use an existing dirt road and drive across grass may not be feasible during the wet season. Adding new hard surfaces, including gravel, and converting the dirt road to gravel, would need to be accounted for in the development application, and applicable stormwater requirements would apply to those hard surfaces.
 - A diesel generator is proposed. Fuel must be managed using applicable Source Control BMPs in accordance with chapter 16.32 SCC.
 - According to FEMA maps the proposed site is within the Special Flood Hazard Area. Floodplain Low Impact Development requirements apply to stormwater management.
2. Development must comply with all requirements of Skagit County's Building Department including but not limited to:
 - A. The proposed project is in a Flood Hazard Zone, Firm Map 0250C, BFE 20'. A flood permit will be required.
 - B. Design for silo, should take into consideration the following:
 - Hydrostatic Pressure against any foundation, wet proofing is not allowed for commercial structures, all structure elements along with base equipment to be elevated 1' above BFE.
 - An elevation certificate will be required for base structure on foundation, and a final certificate for all equipment when completed.
 3. All applicable permits (local, state, and federal) must be secured before any construction activities begin on-site. Copies of permits shall be provided to the Skagit County Planning & Development Services Department.
 4. The Applicant shall be responsible for reimbursement to Skagit County Planning & Development Services Department for the full cost of mailing(s) and newspaper publication associated with the Notice of Development Application, Notice of Issuance of SEPA MDNS, Notice of Hearing, and Notice of Decision. Payment shall be made prior to building permit/grading permit application submittal and/or issuance.
 5. The Applicant must comply with chapter 173.60 WAC, chapter 70.107 RCW, and SCC 14.16.840 for noise, vibration, and light conditions.
 6. At all times, best management practices (BMPs) shall be implemented during grading, excavation, cut/ fill, and construction activities.
 7. Development shall comply with SCC 14.16.900 regulating Special Use Permits in unincorporated Skagit County including but not limited to:

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- A. All special uses, including master planned resorts, shall require a development project be commenced for the entire parcel within 2 years of the permit approval, unless development is phased. For the purposes of this Section, “commenced” shall mean either (1) the use permitted by the permit has been established or (2) a complete building permit has been filed with Planning and Development Services for the principal building which will allow the use. Upon building permit approval, the principal building shall be completed (i.e., final inspections completed) within 3 years. Those portions of the property, which are not included within the development area and where the above time frames are not met, shall automatically be removed from the special use approval, unless a phasing plan is approved pursuant to Subsections (1)(d)(i) and (iii) of this Section. For purposes of this Subsection, “development area” shall mean all portions of the site needed to meet UDC requirements, such as lot coverage and setbacks.
8. Development shall comply with all requirements of the Port of Skagit including but not limited to:
- A. The Port of Skagit is the owner and operator of Skagit Regional Airport. The project location, on Parcel Nos. P21394 and P21396, is within the Airport Environs Overlay for Skagit Regional Airport, in airport compatibility zones 4L and 6, and SCC 14.16.210 applies to the proposal. Based on FAA Part 77 surfaces, height restrictions for structures on the project parcels vary between 240-260 feet. FAA 7460-1 review is required for any construction above 165 feet at this location. As presented in the application materials, the current project proposal does not appear to be present a Part 77 surface penetration.
- B. The Port would like to highlight specific requirements are applicable to this project:
- Part 77 requires that any construction that is subject to the licensing requirements of the FCC must submit notice to the FAA on or before the date that the application is filed with the FCC.
 - All proposed stormwater facilities shall incorporate all applicable FAA and Washington State/WSDOT guidance for stormwater facilities near airports.
- C. The Port of Skagit requests the opportunity to review any future modifications to the project application and/or completed structure/facilities to assess and comment on potential impacts to air navigations.
9. Prior to building permit issuance, Title Notice will be required for location within the Agricultural Natural Resource Land Zoning District under Skagit County Code 14.16.870 and within the Airport Environs Overlay (AEO) under SCC 14.16.210(5).
10. No building permit shall be issued unless the County determines that the subject property meets the minimum lot size requirements for the Ag-NRL zone set forth in SCC 14.16.400(5)(c) or that one or more of the lot size exceptions set forth in SCC 14.16.850 apply to the subject property.

DECIDED this 4th day of August 2023.

A handwritten signature in black ink that reads "Alex Sidles". The signature is written in a cursive style with a long horizontal stroke at the end.

ALEX SIDLES
Hearing Examiner

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