

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: RES America Development Inc.
c/o Virinder Singh
1 SW Columbia Street, Suite 460
Portland, OR 97258

File No: PL06-1115

Request: Special Use Permit

Location: Two separate sites on the ridge top of Lyman Hill. One is within Sec. 27, T36N, R5E, W.M., and the other is within Sec. 9, T36N, R5E, W.M. Parcel numbers: P50933 and P51096

Land Use Designation: Industrial Forest – Natural Resource Land (IF-NRL)

Summary of Proposal: Installation and operation of two meteorological masts used to measure and record wind data. Lattice towers up to 184 feet high will be supported by concrete foundations and guy wires. A data logger will be located at the base of the towers.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on Marcy 14, 2007.

Decision: The application is approved, subject to conditions.

FINDINGS OF FACT

1. RES America Development Inc. (applicant) seeks a Special Use Permit to erect and operate two tall towers to be used to record and measure wind data.
2. The proposed sites are on the ridge top of Lyman Hill, north of State Route 20. They will be approximately 2 ½ miles apart, oriented north and south. One mast will be within Sec. 27, T36N, R5E, W.M. The other will be within Sec. 9, T36N, R5E, W.M. The parcel numbers are P50933 and P51096.
3. The parcels are large Industrial Forest-Natural Resource Lands (IF-NRL) properties. Site #1 is 676 acres in size. Site #2 is 634 acres. The total area taken up on each site by the tower facilities will be minimal. Each mast will be placed on a site that is clear of trees. No tree removal will be required.
4. The towers will be meteorological masts equipped with anemometers and wind vanes at various heights. Data collected on wind speed and direction will be recorded and stored in a data logger located at the base of each tower.
5. The structures will be lattice towers standing up to 184 feet high, supported by concrete foundations and guy wires. The base of each tower will measure 16 square feet (4' x 4'). The four guy wires for each tower will be anchored approximately 150 feet away from the base of the mast.
6. Two to four workers will install each mast. Each will take about six days to install. After the facilities are up and running, there will be no employees on site. Wind data will be collected remotely.
7. The data will be collected on a continuous basis for a period of about five years. Once the masts are no longer needed they will be taken down and the sites will be restored to their original condition. This will include removal of the concrete foundations.
8. Separate logging roads access the two sites. Both roads are gated. Except for a one-ton truck, a backhoe and a cement truck used during construction, the project will generate no traffic. Operation of the installed masts will not generate noise, odors, heat or any other type of pollution.
9. The surrounding area is in forest and undeveloped. There are no dwellings, businesses, or other structures on either site property. According to the Staff Report, the masts are so thin that they will not be detectable to the naked eye in the Skagit Valley around the foot of Lyman Hill. All Federal Aviation Administration (FAA) requirements will be followed. There is no requirement to light these towers.

10. The Notice of Application was posted, published and mailed on January 11, 2007. The application was reviewed under the State Environmental Policy Act (SEPA). A Determination of Non-Significance (DNS) was issued on February 1, 2007. The DNS was not appealed.

11. Agency review revealed no problems. The Building Division noted that a building permit will be required. Critical Areas review was deferred until the building permit process. It is not anticipated that there are critical areas concerns.

12. Planning and Development Services determined that the project is for a “natural resource research facility.” Such a facility is allowed in the IF-NRL zone, if a Special Use Permit is obtained. SCC 14.16.410(5)(g).

13. 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

14. The Staff Report analyzes the proposal against the above criteria and determines that, as conditioned, the project will be consistent with them. 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.

15. In particular this project will have no effect on the long-term management of the lands involved for forest uses. The installation of the masts will not change the current use of the property. The locations in clear areas on ridge tops make appreciable interference with timber harvest activities unlikely. Eventual restoration of the sites will remove any lasting impacts.

16. The purpose of the masts is to help the applicant and landowners assess whether or not production of electricity from wind energy is viable on Lyman Hill. If the data collection supports the viability of wind energy facilities, a separate application for those facilities would have to be entertained and the question of the impacts of such facilities on IF-NRL would be evaluated at that time.

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 the subject matter of this proceeding.

2. The requirements of SEPA have been met.

3. The project, as conditioned, is consistent with the criteria for approval of a Special Use Permit, SCC 14.16.900(2)(b)(v).

4. Issuance of Special Use Permit will satisfy the relevant requirement of the zoning code. SCC 14.16.410(5)(g).

5. 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 altered by these conditions.

2. The applicant shall obtain all other necessary permits and approvals, including building permits.

3. A critical areas site visit shall occur and critical areas approval shall be obtained prior to building permit approval. The applicant shall comply with the provision of Chapter 14.24 SCC (Critical Areas). Failure to comply may result in the suspension of the Special Use Permit.

4. The operation shall comply with SCC 14.16.840, Performance Standards.

5. Best management practices shall to use to prevent degradation to surface and ground water quality in accordance with Chapters 173-200 and 173-201A WAC.

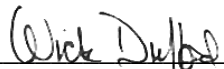
6. Noise standards as set forth in Chapter 173-60 WAC shall be met.

7. Once the masts are no longer used for data collection, the masts shall be taken down and the sites shall be restored to their pre-installation condition, including removal of the concrete foundations.

8. The applicant shall comply with all FAA requirements.

DECISION

The application is approved, subject to the above conditions.



Wick Dufford, Hearing Examiner

Date of Action: April 2, 2007

Date Transmitted to Applicants: April 2, 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.