

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Parallel Infrastructure/Skagit 911
c/o Andy King, The Meridian Group
1910 North 41st Street
Seattle, WA 98103
- Request:** Special Use Permit, PL16-0007
- Location:** 7089 Powerline Road, Marblemount, on P45149, within a portion of NE1/4NE1/4 Sec. 12, T35N, R10E, W.M.
- Land Use Designation:** Rural Reserve (RRv)
- Summary of Proposal:** To construct a wireless telecommunication facility for Skagit 911, including a 195' steel lattice tower with an antenna array consisting of four omni antennas, one 6-foot wide microwave dish antenna, a 15' x 12' foot equipment shelter, and a 50KW backup diesel generator, all located within an 80' x80' fenced leased area.
- SEPA Compliance:** Determination of Non-Significance (DNS), dated March 28, 2016. No appeals.
- Public Hearing:** June 22, 2016. Testimony by Staff and Applicant. One member of the public testified in opposition on aesthetic grounds. Planning and Development Services (PDS) recommended approval.
- Decision/Date:** The application is approved, subject to conditions. July 25, 2016.
- 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. Parallel Infrastructure/Skagit 911 (applicant) seeks to install a new wireless telecommunication facility to provide enhanced 911 call coverage to the town of Marblemount and surrounding residential and recreational areas.
2. Current maps show little or no present 911 coverage in and around Marblemount.
3. The site is 20.72 acre parcel zoned Rural Reserve at 7089 Powerline Road on P45149. The parcel is located east of Ranger Station Road, south of Emerald Lane and approximately ½ mile west of State Route 20, within a portion of NE1/4NE1/4 Sec. 12, T35N, R10E, W.M.
4. The parcel is rectangular in shape and the topography is generally flat. Olson Creek runs along a portion of the western property line. Most of the parcel is heavily forested with a mixture of evergreen and deciduous trees and shrubs. Except for several unused rundown structures (including a dilapidated manufactured home in the northeastern portion), the site is vacant.
5. The proposed tower will be placed in the north central portion of the property approximately 450 feet east of Powerline Road. The 80' x 80' leased area is approximately 400 feet from the west property line, 214 feet from the east property line, 400 feet from the south property line and 200 feet from the north property line. The proposed tower height is 195 feet.
6. The antenna array will consist of four omni antennas mounted to the top of the lattice tower and one 6-foot wide microwave dish antenna at the 130-foot level. The installation will also include a 12' x 15' outdoor equipment shelter located northwest of the tower and a 50 KW diesel powered generator to provide emergency backup power in case of a commercial power outage.
7. A 6' foot high chain link fence, with barbed wire around the top, will surround the leased area. Entry to the area will be via two swing gates located on the west side. Access to the tower site will be via Powerline Road, a private road west of the site. A new 400' long, 12' wide driveway will be constructed to the site from Powerline Road. The project will entail approximately 100 cubic yards of fill and grade activity.
8. The facility will be unmanned except for routine maintenance inspections on a monthly basis. Parking space for maintenance workers will be provided west of the tower outside of the leased area.
9. The 195' tower is required for signals to clear the tops of the surrounding trees. This height is considered the minimum necessary to provide satisfactory levels of coverage to the surrounding area, given existing vegetation and terrain. The antenna used presently is completely inadequate. It consists of a single whip attached to an ordinary telephone pole near the community hall. It does not extend above the surrounding trees.

10. The parcels surrounding the proposed antenna site are also zoned Rural Reserve. They range from two to twenty acres in size. Many are vacant forested parcels. However, there are some single family residences in the vicinity. The parcel directly to the west contains the North Cascades National Park Wilderness Information Center. Seattle City Light's transmission line is located along the entire length of Powerline Road, including the west boundary of the subject parcel.

11. The proposed installation will require the removal of approximately 19 trees. But the remaining tall trees will be many and should provide screening around the perimeter of the leased area. The tower site is over 500 feet from any existing residence. A portion of the tower will protrude above the tree line and will be visible along Powerline Road and from parcels to the south.

12. Two owners of parcels to the south wrote letters of opposition, maintaining that the tower will have a negative impact on the natural beauty of the views from their properties. One of these, Mike Geerts, also testified to the same effect at the hearing.

13. Photo-simulations from nearby public vantages along Powerline Road show the top of the tower as visible above the trees, but the visual intrusion appears minor. While the preference of neighbors for a completely natural vista from their properties is certainly understandable, the Examiner finds that the adverse visual impact of the proposed tower will not be significant.

14. The owners also expressed concerns about exposure to electro-magnetic frequencies. This is an area pre-empted by Federal legislation. The Skagit County Code requires merely that Federal requirements be met. See SCC 14.16.720(12)(f).

15. The applicant commissioned a professional study which showed that the maximum level of public exposure to the RF signal from the proposed antennas will be less than 1% of the FCC general population exposure limit. The study stated that from the point of view of FCC exposure limits the RF signal levels will be "entirely negligible." The FCC limits are represented as broadly similar to existing health standards.

16. No existing towers or structures are present within a 2,500 foot radius of the site that would be suitable for location of the proposed facility. The tower is designed to accommodate up to three additional wireless carriers' antenna arrays.

17. The equipment cabinets and generator will meet the setback requirements for the Rural Reserve zone. Because residential uses are permitted within this zone, the setback for the tower is a distance equal to 100% of the tower height. As proposed, the 195' tower will meet this standard.

18. The tower and foundation design and structural calculations showing that the tower complies with all applicable regulations and standards will be submitted at the time of building permit application. The design will be by a licensed engineer in Washington State.

19. The application was determined complete for processing on February 9, 2016. A Notice of Development was posted, published and mailed as required by law. Review under the State Environmental Policy Act (SEPA) culminated in the issuance of a Determination of Non-Significance (DNS) on March 28, 2016. The DNS was not appealed.

20. The application was circulated to various County departments and none has objections. Comments received are reflected in conditions of approval.

21. On prior review, no critical areas were observed within 200 feet of the site.

22. The Staff reviewed the proposal for conformity with the criteria for cell tower citing and with the general criteria for Special Use Permit approval. The 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.

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

CONCLUSION OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.06.050(1)(b)(ii).

2. The requirements of SEPA have been met.

3. A Special Use Permit is required for a personal wireless service tower in the Rural Reserve zone. SCC 14.16.320(4)(y).

4. The proposal, as conditioned, meets the requirements for approval of personal wireless service facilities. SCC 14.16.720.

5. The proposal, as conditioned, meets the requirements for approval of a Special Use Permit. SCC 14.16.900(1)(b)(v).

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

CONDITIONS

1. The proposal 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 other applicable permits and abide by the conditions of same.

3. Full detailed plans and engineering shall be submitted for the tower and foundation. This includes P.E. stamped structural calculations which must be submitted at the time of building permit submittal.

4. In order to ensure that adequate screening around the tower will be maintained, if any trees that currently provide screening are removed they shall be replaced with trees that will provide comparable screening.

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

6. All equipment, including equipment for future carriers, shall be located within the leased area and shall meet zoning setback requirements. A modification of this permit will be required in the future to expand the leased area.

7. A full Drainage Analysis of the project area shall be submitted at time of building permit submittal.

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

9. Construction activity and operation of the facility shall not exceed standards for noise, light and vibration as set forth in SCC 14.16.840 and Chapter 173-60 WAC.

10. In accordance with the Skagit Instream Rule, Chapter 173-503 WAC no plumbing is allowed and no water approval is given.

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

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

13. The permittee shall comply with all other applicable federal, state and local regulations,

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

15. The Special Use Permit shall be void if the use permitted by the permit has not been established or a complete building permit filed with PDS within two years of permit approval.

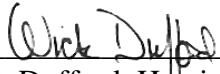
16. A copy of this decision shall be submitted with the building permit.

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

DECISION

The requested Special Use Permit (PL16-0007) is approved, subject to the conditions set forth above.

DONE, this 25 day of July, 2016.



Wick Dufford, Hearing Examiner

Transmitted to Applicant and interested parties, July 25, 2016

See Notice of Decision, page 1 for appeal information.