

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** PI Tower Development/Parallel Infrastructure
c/o Andy King/Meridian Group
169 Lost River Road
Mazama, WA 98833
- Property Owners:** James and Mary Hordyk
305 Hevly Road
Arlington, WA 98241
- Requests:** Administrative Special Use Permit, PL21-0500
Setback Variance, PL21-0501
- Location:** West of State Route 530 (SR 530), north of Darington,
within a portion of Sec. 18, T33N, R10E, W.M.
Parcel No. P18695
- Land Use Designation:** Rural Resource (RRc) and Mineral Resource Overlay (MRO)
- Summary of Proposal:** To install an unmanned wireless services facility, consisting of a 250-foot lattice tower, two omni antennas, one dish antenna, a prefabricated equipment shelter, and a 50-kw backup diesel generator, all within a 2,500 square foot fenced compound. The tower will be lit and marked in accordance with Federal Aviation Administration requirements.
- Public Hearing:** December 22, 2021. Testimony by Planning and Development Services (PDS) staff and Applicant's representative. No public testimony.
- Decision:** The application is approved, subject to conditions.
- 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.

FINDINGS OF FACT

1. PI Tower Development/Parallel Infrastructure seeks a Special Use Permit and a Setback Variance to construct an unmanned wireless communications facility in a remote area north of Darington.

2. The location is west of SR530 within a portion of Section 18, T33N, R10E, W.M. Access will be from a gravel road off Christian Camp Road. The Parcel Number is P18695.

3. The site is within the Rural Resource (RRc) and Mineral Resource Overlay (MRO) zoning/comprehensive plan designations.

4. The subject parcel is vacant and the parcels to the south, west and north are undeveloped. The parcel to the east is currently used as a seasonal Christian summer camp. The tower will be located approximately 1,135 feet to the west of the common property line

5. The installation proposed consists of a 250-foot-tall lattice tower, two omni antennas at the top of the tower and at the 200-foot elevation, one six foot diameter dish antenna, a prefabricated equipment shelter, and 50-kw backup diesel generator, all located within a 2,500 square-foot fenced compound. The site is part of a 67-acre parcel that is constrained with steep slopes which limit placement of the tower.

6. The ridge along the western property line is the only portion of the site that is suitable for the tower. It provides the highest elevation on the parcel, affording the greatest possible radio-frequency transmission from the location. The specific location of the tower will be an old logging landing at the southern end of an existing logging road. This location will minimize ground disturbance and vegetation removal.

7. The initial customer for the facility is Skagit 911. The tower height is the minimum needed to meet 911 coverage objectives. The installation is designed to accommodate co-location by additional wireless carriers. Commercial power and fiber will be extended to the site via underground conduit.

8. The subject property and tower site are surrounded by federal and state-owned forest lands used for commercial harvest. A rock quarry on the property is not currently operational. The siting of the tower would not interfere with any operations at the quarry.

9. The tower will be required to be lit and marked according to Federal Aviation Administration (FAA) requirements. An FAA determination of no-hazard to air navigation was issued on October 19, 2021.

10. The tower will cause no obstruction or diminishment of views from major transportation corridors. The tower is not even visible above the tree-line in the photo simulations submitted.

11. The applicant submitted a statement certifying that the proposed 911 antenna array will not cause any localized interference with any other communications signals or facilities.

12. The noise from the backup generator will only be generated temporarily in the event of a commercial power outage. The closest residential property line is 760 feet SE of the tower. Given the horizontal separation, the noise from the generator will not exceed applicable decibel limits on the residential property.

13. The 2,500 square-foot fenced tower compound fits within a small triangular area on a ridge on the west side of the 67-acre parcel. A protected critical area site plan depicts the triangular area that is constrained by critical areas on all three sides.

14. The required setback is 100% of the height of the tower, here 250 feet. On the west, the distance from the tower site to the property line is 117 feet. The applicant is requesting a variance to allow this placement. The location of the tower is dictated by the site's topography. The applicant states that the ridge location is the only portion of the property that is suitable because it provides the highest elevation that will afford the greatest possible radio-frequency transmission in the vicinity. The combination of critical area constraints, topography and needed elevation make this the minimum variance that will allow the most effective placement.

15. No residential uses are located within the 250 feet, the tower's height. The parcel to the west is state owned timber land. It is vacant and undeveloped with no structures or improvements and, given the steep slopes, not likely to be developed.

16. The apparent purpose of the setback is to prevent damage to neighboring property should a tower topple. Here in the hinterlands where the neighboring property is undeveloped forest land, a failure of the tower to the west would impact only trees on a steep hill side.

17. The application was determined complete on October 19, 2021. Notice of Development Application was published, mailed and posted as required by law. A Determination of Non-Significance (DNS) under the State Environmental Policy Act was issued. No public comments were received.

18. The application was reviewed by various County departments. Their comments are reflected in conditions of approval.

19. The Staff reviewed the application in light of the criteria for personal wireless services facilities, special use permits and variances. They determined that, as conditioned, the proposal will comply with the relevant 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.

20. The project will provide a valuable communication facility to aid in times of emergency. The granting of the variance sought will promote the public welfare.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.10.020(3).
2. The requirements of SEPA have been met.
3. The proposal, as conditioned, satisfies the criteria for Personal Wireless Communication Facilities. SCC 14.16.720.
4. The proposal, as conditioned, satisfies the criteria for a Special Use Permit. SCC 14.16.900.
5. The proposal, as conditioned, satisfies the criteria for a Variance. SCC 14.10,040.

CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain all other required permits and shall abide by the conditions of same.
3. A licensed engineer shall be required to prepare plans and engineering for this project. Plans and construction must demonstrate compliance with the 2018 International Building Code, 2018 IMC, 2018 IFGC, 2018 UPC, 2018 IFC, Washington State Energy Code NREC forms, and ADA standards.
4. The applicant shall obtain a commercial building permit for the structure and supply an address for the site. The building permit process shall include, but not be limited to, a geological hazard review (due to the slope of the area) and engineering information for the project.
5. The project shall comply with all relevant State and County regulations, including but not limited to, Chapter 14.32 SCC (stormwater management), SCC 14.16.840 (performance standards), Chapters 173-200 and 173-201 WAC (surface and ground water), Chapter 173-60 (noise),
6. A grading permit shall be required if review trigger thresholds are met. These thresholds are 4,000 square feet of new or replaced impervious hard surface, and/or 14,000 square feet of land disturbing activity.
7. The applicant shall comply with the geotechnical design recommendations of Black Mountain Consulting, LLC, dated June 9, 2021.

8. The applicant shall comply with the recommendations of the Geohazard and Fish and Wildlife Habitat Assessment of Edison Engineering, dated June 24, 2021.

9. All equipment (Skagit 911 and future carriers) shall be located within the leased area. A modification of this permit will be needed to expand the current leased area.

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

11. Per SCC 14.16.720(12)(e), noise from air conditioners or other equipment associated with personal wireless service facilities and appurtenant structures shall not exceed 45 dbA at the nearest residential property line, except in emergency situations requiring use of a backup generator.

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

13. If storage of hazardous materials (solvents, cleaning supplies, apparatus maintenance related fluids) is anticipated, a spill prevention and response plan may be required (if one does not already exist for the site). The generator and diesel for the generator shall be located in secondary containment and have a spill response plan. This can be addressed in connection with the building permit application.

14. If any major change is contemplated in the project or use outlined in the application, prior review will be required by Planning and Development Services (PDS).

15. PDS shall be notified within 30 days after any change of ownership of the site parcel through submitting a letter to the Planning Director referencing the permit numbers (PL21-500 and PL21-501).

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

17. This permit shall be void if the use permitted has not been established or a complete building permit filed with PDS within two years of approval.

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

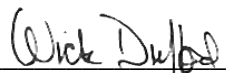
19. The building permit for the project shall be issued in accordance with the approved reduction in setback.

20. Failure to comply with any permit condition may result in permit revocation.

ORDER

The requested Special Use Permit (PL21-0500) and Variance (PL21-0501) are approved, subject to the conditions set forth above.

SO ORDERED, THIS 03 day of January, 2022.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, County staff and Landowners, January 03, 2022.