



KITSAP COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

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Larry Keeton, Director

STAFF REPORT

RECOMMENDATION TO THE HEARING EXAMINER

Date: April 22, 2008

Application Date:

Project: Verizon Wireless Holly-2 Communication Facility

Type of Application: Conditional Use Permit **Project #:** 07 45266

Project Description:

The request is for the approval of a Conditional Use Permit for the construction of a 165-foot monopole with antennas and a 12 x 36-foot prefabricated ground equipment shelter on property owned and previously logged by Olympic Resources. The county previously approved a 165-foot monopole, under Conditional Use Permit (File No. 03 0508-014), which the approval expired in 2006.

Project Location: The subject property is located at 5251 Dewatto Road W, Seabeck, southwest of Ludvick Lake, west of Dewatto Road and approximately 5.4 miles from Seabeck-Holly Road. The parcel abuts the boundary for Mason County in Central Kitsap and located within Commissioner District No.3.

Assessor's Account #: 3624-031-001-1002

Applicant:

Mark Nyhus
Verizon Wireless
15900 SE Eastgate Way MS#231
Bellevue, WA 98103

Project Representative:

Bill Powell
Cascadia PM
8760 122nd Avenue NE
Kirkland, WA 98033

Owner of Record:

Pope Resources Company
Olympic Resources Management, Inc.
PO Box 7
Port Gamble, WA 98364

State Environmental Policy Act (SEPA) Status:

Pursuant to WAC 197-11-340, the Responsible Official signed a Determination of Nonsignificance on April 1, 2008 with the following information [Exhibit-58].

Comments: A Mitigated DNS was previously issued on March 7, 2003 for a 165 foot monopole on the subject parcel (File #03 0508-014). The monopole was not constructed prior to permit expiration. The revised application includes relocation of the previously approved monopole approximately 3000 feet south to the central portion of the subject parcel. A Notice of Application was issued for the revised application on February 27, 2008. **The proposal has been reviewed pursuant to 197-340(2) and (3); this modified DNS is issued to document changes to the original proposal. In order to mitigate visual impacts, the existing mitigation measures for dark (non-reflective) earth tone paint color and a minimum 50-foot native vegetation buffer are still applicable.**

Physical Characteristics:

The subject property is undeveloped, recently logged, “L” shaped, 400-acres in size, on commercial timberland owned by Olympic Resources Management. There are small stands of Douglas fir (planted 6 to 8 years ago) and deciduous trees and under story on the property. The project site has gently rolling topography. Some of the trees around the proposed site near the west side of the property adjacent to the creeks are approximately 80 to 100 feet tall. A high plateau runs north and south through the center of the property at an elevation of 600 feet or more. Property owners located to the east are at lower elevation ranging from 450 to 580 feet.

The County resource maps identify the west and north portions of the property as being located within the Moderate Hazard Area critical area designation. This area includes multiple streams located in ravines with the headwaters originating on the subject property that drain to Hood Canal. The northwest corner of the property is located within 200 feet of the shoreline of the Hood Canal, which has a Conservancy Shoreline designation. There is a large wetland with mature buffers located near the lower east side of the property. The Soil Survey of Kitsap County identifies the majority of the site as Shelton very gravelly sandy loam with 6 to 15 % slopes. The soil is moderately deep and well drained. The Soil Survey has classified the west side of the property as Dystric Xerorthents 45 to 70 percent slopes

Comprehensive Plan Designation and Existing Zoning:

The project site is zoned Rural Wooded (RW). The intent of the zone is to *“...encourage the preservation of forest uses, retain an area’s rural character and conserve the natural resources while providing for some residential use.”*

Minimum Density = 1 dwelling unit per 20 acres

Maximum Density = 1 dwelling unit per 5 acres

Minimum Setbacks = 50-feet front yard
20-feet side yard
20-feet rear yard

Surrounding Land Use and Zoning:

The property is adjacent to other similar sized properties and smaller 20-acre parcel zoned RW with single-family homes to the east. The nearest home is approximately 2,000 feet to the northeast.

Public Utilities and Services:

Water: N/A
Power: Puget Sound Energy
Sewer: N/A
Police: Kitsap County Sheriff
Fire: Central Kitsap Fire and Rescue
Schools: Central Kitsap School District #401

Transportation Review:

Access to the site would be provided from an existing private forestry road (Gate #D15) connected to Dewatto Road, a County minor-collector road. The lease area is approximately 2.5 miles from the gate entrance. Development Engineering has reviewed the transportation proposal for the project and has issued a preliminary approval dated April 17, 2008.

Stormwater Facilities:

The proposal falls below the threshold for a major development review and will not require a Site Development Activity Permit. The applicant will prepare an abbreviated site plan with the Building Permit to include best management practices to control stormwater drainage. Development Engineering has reviewed the stormwater proposal for the project and has issued a preliminary approval dated April 17, 2008.

Off-Street Parking:

The applicant is proposing to construct an unmanned wireless communication facility (WCF), which will require minimal vehicular traffic. The project will include space for service vehicles to enter and exit the site. The project is consistent with KCC Chapter 17.435 *Off-Street Parking and Loading* standards.

Policies and Regulations Applicable to the Subject Proposal:

Kitsap County Code (KCC)
Road Standards, Title 11
Stormwater Drainage, Title 12
Zoning, Title 17, (February 15, 1999/ as amended)

- Chapter 110 Definitions

- Chapter 310 Zoning “Rural Residential“
- Chapter 385 Landscaping
- Chapter 400 Land Use Review
- Chapter 421 Conditional Use Permit – Hearing Examiner
- Chapter 410 Site Plan Approval
- Chapter 470 Wireless Communication Facilities
- Chapter 520 Appeals
- Chapter 525 Revocation of Permits or Variance

KCC, State Environmental Policy Act, Section 18.04

Kitsap County Critical Areas Ordinance, Title 19, (Adopted May 7, 1998 and as amended December 2005)

Kitsap County Land Use and Development Procedures Title 21, (May 18, 1998 and as amended)

Kitsap County Comprehensive Plan (May 7, 1998 and as amended)

The following provisions are Goals of the Comprehensive Plan addressing the utility element:

Utilities Element Policies

- UT-18 Encourage siting of large, above ground utilities (e.g. antennas, towers) in industrial or commercial areas or along appropriate transportation and utility corridors.
- UT-19 Minimize the visual impact of utility facilities on view corridors, vistas, and adjacent properties by developing design guidelines for cellular towers, antennas and other types of utility facilities.

Background:

The Hearing Examiner approved a Conditional Use Permit for a 165-foot monopole WCF, which the permit expired in the year of 2006 (File 03 0508-014). On June 18, 2007, Verizon Wireless submitted another Conditional Use Permit application with visual impact analysis for the same tower site that the County approved earlier. The applicant resubmitted the application on January 9, 2008, which was determined complete for processing on February 19, 2008.

Later, Verizon selected a second site, approximately 150 feet south of the original site because the original site was found to be within a forest management unit that was under a six-year moratorium for new development. A balloon test was completed, and Verizon Wireless decided to revise their application by moving the facility a significant distance south of the previously approved site. Verizon decided to move the facility based on input from some of the property owners near the proposed project site.

Analysis:

Project Description: Verizon is proposing that the support structure with an antenna array with three sectors with four antennas per sector and ground equipment will be located within a 3,000 square (50 x 60 foot) lease area on commercial timberland. The maps show the present site is located 1,962 feet from the east property line that abuts the Ludvick Lake subdivision, 1,917 feet from the west property line, 3,116 feet from the north property, and 2,161 feet from the south property line. The ground equipment is proposed to be located east of the base of the support structure. The equipment cabinets and the generator will be located within a 360 square foot prefabricated building within a barbwire-fenced compound.

The County reviewed the Verizon Holly Conditional Use Permit application for the WCF for consistency with KCC Chapter 17.470 for WCF [Exhibit-26]. The final site plan and elevations are dated January 9, 2008 [Exhibit-42]. The area to receive improved wireless coverage is from Bremerton west to State US Highway 101 across Hood Canal.

WCF antenna support structures exceeding 35-feet in height are processed as a Conditional Use Permit per KCC Section 17.470.100, WCF Review Process Table. The Kitsap County decision criteria are set forth in KCC 17.470.060 and are listed below with a response discussing how the proposed WCF satisfies each criterion.

Kitsap County Conditional Use Permit Decision Criteria, KCC 17.470.060

The following decision criteria are to determine conditions of approval. The conditions imposed will ensure compatibility of the use with other permitted uses in the surrounding area. Staff responses to the criteria are indicated in italics.

1. It must be demonstrated that there is a need for a WCF to be located within or near (300-feet) a residential zone.

The applicant states that Verizon Wireless is expanding their coverage in rural Kitsap County. The area west of Bremerton has such poor coverage as to making phone calls on their network impossible. Cell phones have become increasingly useful in rural areas and the proposed site will provide improved coverage in residential areas and for people driving through the area. Modern phones also utilize locating systems (GPS) to aid in emergency response services.

Comments: Staff believes that the applicant has demonstrated that there is a need for the facility to be located in this rural area. Based on the radio frequency propagation maps, the applicant demonstrates a need for the facility based on the current lack of coverage in west Kitsap and west across Hood Canal [Exhibits-14 and 76].

2. The applicant's evaluation of operational needs and alternative of other sites within one mile.

The applicant previously said there are no other structures within the area that would support collocation of the antennas. A new monopole is the only alternative to providing service in this area. The reasoning for the antenna tip height of 165 feet and facility location so antennas are above tree lines in the area to provide a line of sight to US highway 101.

Comments: Conditions have not changed from the previous application. Staff agrees that the proposed monopole is the only practical alternative based on the lack of other support structures, topography, and the needed coverage to both traveling and in-home users.

3. The proposal is required to be compliant with KCC Section 17.470.050 Site Development Standards.

A. Viewscapes–Visual Impact Analysis: The applicant has sent out public notice to surrounding property owners, performed and documented the balloon tests. The applicant performed balloon tests on March 20, 2007 for the first site where there is a moratorium, October 10, 2007 for the second site and December 4, 2007 for the site under consideration. Photo simulation was prepared from the public balloon test providing a visual appearance from abutting property. The applicant states that the proposed 165-foot monopole will not result in a “more than a moderate visual impact upon significant viewscapes such as Olympic Range views, views of water bodies e.g. Hood Canal, and /or open expansive views such valleys.” The proposed 165-foot monopole will not block or obstruct any existing views within the vicinity of the subject parcel due to the distance from the facility.

Comments: To provide public comment on the potential visual impacts, the applicant has performed several balloon tests in accordance with the requirements in KCC Chapter 17.470 Wireless Communication Facilities. The present site, which is approximately 1,200 feet southeast of the preapproved site, is better site to reduce visual impacts. Portions of the monopole will be visible from the northeast. The increased distance from the residential properties to the east will reduce the observed height of the facility.

Tree buffers for the creeks on the west side of the property are located in the middle ground when viewed the site from the east. The proposed tower should be consistent with the visual pattern and dark color of the trees in the middle ground and the background of the foothills for the Olympic Mount range.

B. Landscaping and Screening: The applicant states the structure will be a monopole –type and is exempt from buffer requirements in the RW zone

according to KCC 17.470.050.B.3. Nevertheless, a use separation buffer of 50 feet has been leased from the landowner surrounds the site and will be allowed to grow as native vegetation. The fencing surrounding the site will be a dark coated chain link.

Comments: Staff agrees with the applicant on the interpretation of the code that the project is exempt bulk regulations for landscape buffers. The existing trees are approximately 10 feet in height will screen the base of the facility and do not screen the support structure at this time. Reserving a 50-foot buffer now will help reduce any future potential visual impacts for the neighboring property owners, consistent with the conditions in the SEPA Determination, dated April 1, 2008 [Exhibit-58].

- C. Color and Lighting: Pursuant to KCC Section 17.470.050.C.2, the applicant will paint the support structure and antennas a non-reflective, earth tone color that will blend with surrounding coniferous tree vegetation [Exhibit-58]. The applicant has documented that the Federal Aviation Administration (FAA) that the tower does not require any support structure lighting [Exhibit-64].

Comments: The applicant correctly states that the FAA has documented the tower height of the proposed support structure would not create a hazard to air navigation and require lighting. The SEPA determination conditions the support structure be painted a flat dark earth tone color to minimize visual impacts. The applicant has agreed to paint the facility dark green to match the general background.

- D. Electromagnetic Field/Radio (EMF): Frequency Radiation Standards
The proposed Verizon Wireless WSF will comply with Kitsap County, State and Federal guidelines applicable to FCC standards for EMF.

Comments: Review of the frequency radiation is outside of the County's jurisdiction, but staff expects that Verizon Wireless will adhere to all Federal frequency EMF standards.

- E. Sharing of Support structure and Collocation of Facilities: Verizon Wireless sent the require notice to all the existing carriers (Sprint/Nextel, T-Mobile, ATT-Cingular and Clearwire) and no response was received to collocate on the WCF.

Comments: There are no other wireless communication facilities within one mile of the site. The facility is designed by the applicant for multiple carriers to locate on the support structure consistent with KCC. The site plan does not show designated areas for ground equipment for other wireless carriers to collocate, but there appears to be adequate room. The site plan for the Building Permit should show designated areas for other carriers to collocate ground equipment.

Public Comments:

The County, pursuant to KCC Title 21, Land Use, and Development Procedures, gave proper public notice. The Department received comments on the project in support and against the project. The comments are summarized as follows: Susan Garner a property owner in the area supports the project due to improved coverage and improve emergency response. Paul Hirsch, attorney representing David and Marilyn Hazelquist had a number of comments on the first and second alternatives, such as the balloon test was not representative of the visual impact, visual impact analysis is irrelevant or misleading. The new location should not create a visual impact if constructed as proposed. Kim Carson had concerns with the facility with create visual impacts on the Olympic Mountains, did not see the balloon test because of technical difficulties. John and Melissa Lee had concerns with impact to Olympic Mountain views, did not receive enough information to evaluate the project and there is enough language in the code to deny the project. Staff sent a letter to John and Melissa Lee and Kim Carson explaining that Verizon considered several alternatives and moving the facility over a significant distance to the south, reducing visual impacts.

- County Health District: A letter dated February 7, 2003 recommends approval with no conditions.
- County Development Engineering: A memorandum dated April 17, 2008 recommends approval, subject to conditions.
- County Fire Prevention Bureau: No comments received to date.
- Public Input: David & Marilyn Hazelquist, 23931 W. Ludvick Lake Drive, Seabeck, WA 98380, Paul Hirsch, PO Box 771, Manchester WA 98353-0771, John Melissa Lee, 11113 – 46th Street E., Edgewood, 98372, Susan Garner, 17526 8th Avenue NE, Shoreline, WA 98155, Kim and Dan Carson, PO Box 184 Burley, WA 98322

Findings:

Staff has reviewed the Verizon Holly 2 Conditional Use Permit application against the requirements in KCC 17.470 Wireless Communication Facilities and satisfies the criteria set forth in KCC Section 17.421.030(A) Findings on each criteria are hereby made as follows:

1. As found above, the proposal is consistent with the RW designation of the comprehensive plan.
2. The proposal complies with applicable requirements of Title 17 KCC, assuming compliance with conditions of approval.

3. The WCF will not be materially detrimentally impact uses or property in the immediate vicinity, which includes other significant commercial uses.
4. The proposal is compatible with and incorporated specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.

Recommendation:

Based upon the above findings, staff recommends that the Conditional Use Permit request for Verizon Holly 2 Site be **approved**, subject to the following conditions:

1. A final Abbreviated Site Plan will be included with the Commercial Building Permit Application.
2. Verizon must amend the Abbreviated Site Plan to identify lease areas for future collocation by other providers within the fenced compound.
3. Land use approval is limited to the uses proposed by Verizon Wireless on the recommended site plan and the SEPA Environmental Checklist dated January 9, 2008. Any modifications or expansion of the project will be subject to further environmental review pursuant to the requirements of the appropriate sections of the KCC. The following are mitigation measures for the MDNS, dated April 1, 2008:
 - A. The monopole shall be painted in dark earth tone colors (dark green); final colors to be reviewed and approved by DCD staff prior to building permit approval (If the applicant proposes any changes to the paint color, DCD shall review and approve the final color selection).
 - B. The significant screening trees on the property shall be retained to provide a functional screen to remain for the life of the wireless communication facility.
4. The applicant shall retain a vegetative easement for the 50-foot buffer area around the tower to ensure that all existing natural vegetation remains (with the exception of the areas required for ingress and egress as shown on the site plan). The native vegetation easement shall remain in effect for the life of the facility to provide a functional screen from the adjacent residential properties.
5. The structure shall be unlighted, including any daytime strobes or nighttime illumination, including flashing or solid beacons. Should the FAA require such lighting for the purpose of aircraft safety, the facility shall be redesigned to meet FAA regulations without the need for lighting of the structure.

6. The applicant shall meet all requirements of the Federal Communications Commission (FCC) and the Telecommunications Act of 1996 regarding Electromagnetic Field/Radio-Frequency Standards.
7. Prior to issuance of a Building Permit, the applicant shall provide a fully executed lease agreement with the owner of the property. (Note: Any propriety information regarding lease rates may be excluded.)
8. Prior to issuance of a Building Permit, the applicant shall record a Land Use Permit Binder with the Kitsap County Auditor's Office pursuant to KCC Section 17.421.080 Land Use Binder Required. If conditions are not adhered to, contrary to the Land Use Permit Binder, the Conditional Use Permit may be rescinded and the County may require that the facility be removed at the owner's expense.
9. Any modifications or expansion of the project will be subject to further land use review pursuant to the requirements of the appropriate sections of the KCC.
10. The applicant or property owner will be required to remove the facility within six months if the operation of the facility is discontinued.
11. Pursuant to KCC 21.04, land use approval is valid for a period of up to three (3) years from the decision date.
12. The applicant shall adhere to all applicable requirements of the Kitsap County Health District.
13. The applicant shall adhere to all applicable requirements of the Kitsap County Fire Marshal's Office for fire, life, and safety.

Development Engineering accepts the concepts contained in this preliminary submittal and requires the following conditions as an element of approval:

STORMWATER

14. All minor developments creating greater than 2,000 square feet of new impervious surface and major developments creating less than 10,000 square feet of new impervious surface shall:
 - a) Implement either individual downspout infiltration or roof downspout dispersion per the Kitsap County Stormwater Design Manual to the maximum extent possible; or
 - b) Discharge to a regional water quantity control facility designed to receive the developed site runoff.

SURVEY

15. At the time of Building Permit Application, submit a site plan to scale, showing the location of trees to be retained, the clearing limits and any topographic information, certified by a licensed Land Surveyor, including stamp/seal and signature.

cc: Mark Nyhus, Verizon Wireless, 15900 SE Eastgate Way MS#231, Bellevue, WA 98103

Pope Resources Company, Olympic Resources Management, Inc., PO Box 7, Port Gamble, WA 98364

Bill Powell, Cascadia PM, 8760 122nd Avenue NE, Kirkland, WA 98033

Interested Parties: David & Marilyn Hazelquist, 23931 W. Ludvick Lake Drive, Seabeck, WA 98380, Paul Hirsch, PO Box 771, Manchester WA 98353-0771,

John Melissa Lee, 11113 – 46th Street E., Edgewood, 98372, Susan Garner, 17526 8th Avenue NE, Shoreline, WA 98155, Kim and Dan Carson, PO Box 184

Burley, WA 98322

Kitsap County Health District, MS-30

Kitsap County Parks & Recreation Dept., MS-6

Kitsap County Development Engineering / Public Works

DCD Staff Planner, Jeff Smith

DCD Code Enforcement

Hearing Examiner

Clerk of Hearing Examiner

DCD File

DCD Building Permit File