



COUNTY COMMISSIONERS

Carolina Mejia-Barahona
District One

Gary Edwards
District Two

Tye Menser
District Three

HEARING EXAMINER

Creating Solutions for Our Future

OFFICE OF THE HEARING EXAMINER

THURSTON COUNTY

REPORT AND DECISION

PROJECT NO.: 2022106056
ARX Wireless

SEQUENCE NO.: 22 116267 ZM and 22 116268 XA

TAX PARCEL NO.: 09580003000

LOCATION ADDRESS: 6328 Zangle Road NE
Olympia, WA 98502

LEGAL DESCRIPTION: NW ¼ of Section 24, Township 19N, Range 2W, LYLE DC S500F LY
E OF ZANGLE RD LESS R/W LESS S200F

OWNER: Stephen M. Connor
P.O. Box 977
Petersburg, AK 99833

APPLICANT: ARX Wireless
110 Washington Ave
North Haven, CT 06473

POINT OF CONTACT: Terrence Danysh, Attorney at Law
PRK Livengood PLLC
10900 NE 4th St., Ste 1850
Bellevue, WA 98004

SUMMARY OF DECISION

The request for a Special Use Permit to construct and operate a freestanding wireless communication facility near the intersection of Boston Harbor Road and Zangle Road NE is GRANTED subject to conditions.

SUMMARY OF RECORD

Request:

ARX Wireless (Applicant) requests approval of a Special Use Permit (SUP) to construct a 135-foot monopole tower on an unimproved property near the intersection of Boston Harbor Road and Zangle Road NE which will initially support antennas operated by T-Mobile to provide wireless voice and data coverage to the surrounding roads, businesses, and neighborhoods.

Public Hearing:

After reviewing the Community Planning and Economic Development Department Report and examining available information on file with the application, the Examiner conducted an open record public hearing on the request on October 17, 2023. The hearing was opened at 10:00 a.m. and was concluded at 11:35 a.m. The record closed at adjournment of the hearing.

Testimony:

At the open record public hearing, the following individuals presented testimony under sworn oath:

Staff

Brett Bures, Planning Manager
Dawn Peebles, Environmental Health Program Manager
Arthur Saint, Civil Engineer, Public Works

Applicant ARX Wireless

Keith Coppins, CEO
Steven Kennedy, RF Engineer
Darrin Shed, Property Appraiser
Jeff Langdon, Representative

Public

Julian Mountjoy
Winona Ferguson
Kathleen Connor
Todd Mason
John Wilson

Exhibits:

At the open record public hearing, the following exhibits were submitted and made a part of the record:

EXHIBIT 1 Community Planning and Economic Development Staff Report:
Attachment A Master Application date stamped

Attachment	B	Special Use Permit Application
Attachment	C	Project Narrative
Attachment	D	Coverage Objective and Need Statement
Attachment	E	Balloon Test Notice and Results
Attachment	F	Legal Description/Survey
Attachment	G	SEPA Checklist and Application
Attachment	H	Geologic Hazard Assessment
Attachment	I	Site Drawings and Plans
Attachment	J	Wetland Report
Attachment	K	Timber Cruise Report
Attachment	L	Wells Report
Attachment	M	NEPA Checklist
Attachment	N	Phase 1 Environmental Assessment
Attachment	O	Summary of Response to Wetland Report
Attachment	P	Colocation letter
Attachment	Q	Property Owner Statement
Attachment	R	ARX Wireless Safety and FAA Compliance Certifications
Attachment	S	ARX Wireless FAA Determination of No Hazard
Attachment	T	Siting Alternatives
Attachment	U	Residential WCF location statement
Attachment	V	3rd Party Review
Attachment	W	Notice of Application
Attachment	X	SEPA Determination
Attachment	Y	Letter of Intent
Attachment	Z	Color and Noise Statement
Attachment	AA	Radio Station Authorizations
Attachment	BB	Drainage Report
Attachment	CC	Removal/Co-location Agreement
Attachment	DD	Co-location Letters and Certified Mail Receipts
Attachment	EE	Radio Letter Frequency Electromagnet Energy Compliance Report
Attachment	FF	US Department of Interior – USFWS Concurrence
Attachment	GG	Public Hearing Notice
Attachment	HH	Environmental Health recommendation of approval
Attachment	II	Public Works recommendation of approval
Attachment	JJ	Agency Comments
Attachment	KK	Public Comments
EXHIBIT 2		ARX Wireless Pre-Hearing Brief
EXHIBIT 2A		Engineer Letter
EXHIBIT 2B		Proximity Impact Analysis
EXHIBIT 2C		RS Design Analysis
EXHIBIT 2D		RF Justification Letter
EXHIBIT 2E		Viewshed Analysis
EXHIBIT 2F		Informal Biological Analysis
EXHIBIT 3		Public comment from Brando Kaiser
EXHIBIT 3A		Public comment from Kathleen Connor
EXHIBIT 3B		Public comment from Dorothy Lyons

Based upon the record developed at the open record hearing, the Pro Tem Hearing Examiner enters the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. ARX Wireless (Applicant) filed a Master Application (Application) for a Special Use Permit (SUP) on December 13, 2022, to construct, operate and maintain a freestanding wireless communications facility (WCF) consisting of a 135-foot tall monopole tower and a 50-foot by 50-foot fenced compound to contain a new equipment shelter and ground mounted equipment on a concrete pad. The WCF is proposed to be located at 6328 Zangle Road NE, Olympia, WA, on parcel number 09580003000, and further identified as NW ¼ of Sec 24, Township 19 N, Range 2 W, to support antennas of potential multiple wireless carriers and, thereby, provide enhanced coverage to the surrounding area. Prior to filing the Application, on May 12, 2022, the representatives of the Applicant including the CEO had met with property owners within one-half mile of the proposed site to discuss the project and siting alternatives. (Exhibits 1A, 1B, 1D and 1T)
2. The Application includes a 30-foot wide access and utility easement originating off Zangle Road NE that would provide the site with underground utilities and a vehicular access over a 12-foot wide gravel driveway within the 30-foot wide easement. The antennas affixed to the top of the monopole will consist of T-Mobile panel antennas, mounted in three sections, at a centerline height of 130-feet with spaces for two other wireless service providers to co-locate available at the 110-feet and 120-feet heights. (Exhibit 1I)
3. On January 12, 2023, T-Mobile and the Applicant memorialized in a Letter of Intent to enter into a lease agreement for the T-Mobile co-location on the proposed WCF. (Exhibit 1Y)
4. On February 24, 2023, the Notice of Application was issued to the appropriate local and state agencies, sub-area project list subscribers and property owners within 2600-feet of the project site with the comment period expiring on March 16, 2023. (Exhibit 1W)
5. On April 17, 2023, Stephen Connor, Property Owner, sent a letter to Joshua Cummins, Director of Community Planning & Economic Development, to inform the County that his family intends to preserve the local flora and fauna and does not contemplate any further development of the subject parcel. He also noted that the adjacent 95-acre parcel has been assigned to a perpetual conservation easement in partnership with the Capital Land Trust. (Exhibit 1Q)
6. The Notice of the public hearing was published in The Olympian on October 6, 2023, at least ten (10) days prior to the hearing. Written notice of the public hearing was sent to all property owners within 2,600-feet of the site and to others who had requested notice. (Exhibit 1GG)
7. The privately owned subject property is approximately 2.95-acres in area, rectangular in shape, currently wooded and undeveloped and located near the intersection of Zangle Road NE and Boston Harbor Road. The topography is a slightly sloping hill generally east facing with elevations highest in the west and lowest in the east. The parcel is dominated by mature Western Red Cedar, Douglas Fir, Himalayan blackberry and western sword fern. The proposed WCF would be located in the central, generally flat forested portion of the parcel. No

wetlands are located on the subject parcel but an off-site wetland was identified within 300-feet to the east of the parcel. (Exhibits 1, 1J)

8. On September 14, 2021, Ramaker & Associates, on behalf of the Applicant, issued a "Phase 1 Environmental Site Assessment" which revealed no evidence of recognized environmental conditions in connection with the subject property. (Exhibit 1N)
9. On April 19, 2022, the Applicant provided a timber cruise report from Sinclair Timber Consulting LLC for the subject property which determined that thirty-four (34) trees including Douglas Fir, Red Cedar, Maple and Alder were within the area to be cleared resulting in a total of 4,000-board feet present on the site. (Exhibit 1K)
10. Ramaker & Associates submitted an "Informal Biological Assessment" dated March 24, 2022, to the U.S. Fish and Wildlife Service (USFWS) which preliminarily concluded that the proposed cell tower would have "No Effect" on any federally listed, threatened, endangered and candidate species and/or critical habitat and would "Not Likely to Adversely Affect" the Taylor's Checkerspot. (Exhibit 3F)
11. Ramaker & Associates also completed a screening report and an environmental checklist in compliance with the National Environmental Policy Act (NEPA) which concluded that unless triggered by a Radio Frequency (RF) NEPA issue, the project will not have a significant environmental impact and is categorically excluded from further environmental proposes. (Exhibit 1M)
12. Ramaker & Associates submitted the July 2022 "Zangle Wetland and Non-Wetland Waters Determination Report" which concluded that no wet lands were observed within the proposed project area nor within the subject parcel. However, an off-site forested wetland was identified within 300-feet to the east of the parcel and has been rated as a forested slope wetland, Category IV. The standard wetland buffer is 220-feet or 165-feet with mitigation. Although the proposed impacts of the subject wireless monopole are well outside the wetland and wetland buffers, the recommendation was a "Preliminary Jurisdictional Determination that should be reviewed by the Department of Ecology." (Exhibit 1J)
13. Subsequently, in 2023, Ramaker & Associates submitted a revised "Zangle Wetland and Non-Wetland Waters Determination Report" to the County which noted that after further studies and consultation with the Washington State Department of Fish and Wild Life (WDFW) and the United States Fish and Wiid Life Service (USFWS), the wetland was categorized, the appropriate 240-foot buffer established and a final determination made that due to the dense vegetative cover on the parcel, the project will have "No Effect" to any listed or threatened species nor their critical habitat. (Exhibits 1O)
14. In response to the Ramaker & Associates March 24, 2022, Biological Assessment, the USFWS reviewed and accepted the determinations of "No Effect" on any federally listed, threatened, endangered and candidate species and/or critical habitat and "Not Likely to Adversely Affect" the Taylor's Checkerspot and noted that the project should be re-analyzed if the Applicant deviates from the permit or project description or if new information reveals impact to listed species or critical habitat or if a new species is listed or critical habitat is designated that may be affected by the project. (Exhibit 1FF)

15. A June 2022 geotechnical report submitted by Ramaker and Central Geotechnical Services, LLC evaluated the slope stability of the proposed site with respect to potential undocumented fill and subsurface soil strength and a possible landslide located about 30-feet east of the proposed monopole tower. The conclusion was that the potential for damaging deep-seated slope movement at the site to be low and that the project is not considered to pose any adverse effects on slope stability at the site on or adjacent properties. The report also noted that stormwater runoff was limited to the concrete slabs and shed roofs and would not significantly alter existing infiltration and groundwater flow pathways nor pose any adverse effects on erosion at the site or on adjacent properties. (Exhibit 1H) (See also Exhibits 1F and 1BB)
16. On October 13, 2022, the Federal Aviation Administration issued a "Determination of No Hazard to Air Navigation" on finding that the proposed WCF does not exceed obstruction standards and would not be a hazard to air navigation providing certain conditions are met. (Exhibit 1S) (See also Exhibit 1R)
17. On December 13, 2022, the Applicant filed the SEPA Environmental Checklist with the County. (Exhibit 1G) After the Thurston County Community Planning and Economic Development Department reviewed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), Brett Bures, the County's SEPA Responsible Official, issued a Mitigated Determination of Non-significance (MDNS) on August 23, 2023. The SEPA comment deadline was September 6, 2023, and the SEPA appeal deadline was September 13, 2023. No appeals were filed and the MDNS became final on September 14, 2023. (Exhibit 1X)
18. The Thurston County Comprehensive Plan and Zoning Ordinance includes Goal 1, Objective A, Policy 14 of the Land Use Chapter at 2-39, which states:

Special uses that may be permitted in the rural area should be constrained in size and scale so as to maintain rural character. The primary purpose of special uses should be to serve the rural area residents of Thurston County.

On review, County staff found that the proposed use is constrained in size to only that what is necessary for the provision of wireless communication coverage and concluded that the Applicant's request for the SUP was consistent with the Comprehensive Plan. (Exhibit 1)
19. The subject property as well as the surrounding parcels are located in rural unincorporated Thurston County and have a Rural Residential Resource (RRR) 1/5 zoning designation which permits one single-family residence on a five-acre parcel. Specifically, the site is encompassed with a single-family residence on the parcel to the south, one single-family residence on the parcel to the north, undeveloped and forested property to the east and two single-family residences located across Zangle Road NE to the west. (Exhibit 1J)
20. Pursuant to Thurston County Code (TCC) 20.09A.010, the purpose of the RRR 1/5 zone is to: encourage residential development that maintains the County's rural character; provides opportunities for compatible agricultural, forestry and other rural land uses; is sensitive to the site's physical characteristics; provides greater opportunities for protecting sensitive

environmental areas and creating open space corridors; enables efficient road and utility systems; and does not create demands for urban level services.

21. Wireless communications facilities (WCF's) antenna structures including radio and television towers are allowed in the RRR 1/5 zone pursuant to review as a special use under TCC 20.54 entitled "Special Uses," specifically, TCC 20.54.070.44.3, subject to compliance with the County Code's wireless communications facilities regulations stated in TCC Chapter 20.33. The zone permits free standing WCF towers and associated equipment as a Special Use (TCC 20.54, Table 1) with hearing examiner approval (TCC 20.33.040(1)).
22. The purpose of the proposed WCF is to provide and enhance coverage and capacity in existing wireless communications networks located in northern Thurston County, particularly to the area between Budd Inlet and Henderson Inlet and surrounding waterways. Based on radiofrequency (RF) propagation mapping, the signal strength in this area is unreliable. The T-Mobile antenna facility located just north of the eastern terminus of Cross Creek Lane NE provides a signal strength and coverage that significantly fades to the west of Henderson Inlet. Therefore, with the appropriately designed WCF at the proposed location, the signal strength in the proposed coverage area would provide residential customers with in-vehicle and in-building coverage for their voice and data needs as well as reliable coverage for E-911 services. (Exhibit 1D) (See also Exhibit 1V)
23. Pursuant to TCC 20.33.070, proposed wireless communications facilities provisions require co-location onto existing support structures unless the approval authority determines that the antenna cannot be accommodated on a structure within one mile of the proposed site or in one half of the WCF's radio frequency coverage area, whichever is greater. In this case, Biwabkos Consultants determined that the closest identifiable cellular tower is 4-miles away from the proposed site and concluded there are no co-location opportunities within one mile of the proposed site nor within one half of the RF coverage area. Therefore, no existing structures or colocation opportunities are an alternative to the installation of the proposed WCF/antenna support structure to serve the target service area. (Exhibits 1C, 1P, 1U, 1V, 2A)
24. In accordance with the requirement of TCC 22.33.050, the Applicant submitted affidavits from itself and from the underlying property owner indicating consent to co-location under reasonable terms and agreement to remove the WCF in the event of abandonment or code violation. The Applicant sent notice of the co-location opportunity to three carriers; T-Mobile, Dish Wireless and Verizon. The Applicant also submitted FCC Radio Station Authorizations for T-Mobile. (Exhibits 1Y, 1CC, 1DD, 1EE and 1AA)
25. Pursuant to TCC 20.33.080(2)(a) which prohibits freestanding WCFs in residential districts unless a proponent demonstrates that a site is not available or technically feasible in a non-residential district, the Applicant submitted an analysis of the area which found the following: (Exhibit 1T)
 - Properties to the south as well as those on the west side of Boston Harbor Road SE are unsuitable due to a drop-off in ground elevation of more than 50-feet which would significantly diminish the coverage area unless the structural height was increased proportionately which would increase the visual impact of the WCF in both near and distant view sheds.

- Properties to the east were unsuitable due to the loss of the “line of sight” to the north and/or lack of properties that would meet elevation and setback requirements.
 - To achieve the stated coverage objectives, the proposed WCF will be located on or near the topographical apex of the terrain and have a “line of sight” visibility to the proposed coverage area which includes the length of Boston Harbor Road.
26. When a WCF must be located in a residential district, various provisions in TCC 20.33.080 and 20.33.090 indicate that preference should be given to forested parcels. The subject parcel is forested with mature Western Red Cedar and Douglas fir trees. The Applicant proposes to further screen and camouflage the facility by retaining trees and shrubs on the property where possible and plant arborvitae shrubs to obscure the chain link fence around the facility. (Exhibit 1T)
27. The proposed monopole will be 135-feet above grade and is, therefore, exempt from the 35-foot building height limit in the RRR 1/5 zone and in compliance with the 180-foot maximum height for a freestanding cellular tower including antennae stated in TCC 20.33.080(6)(b). The tower is also compliant with the setback requirement in TCC 20.33.080.3.a. The minimum setback standard applicable to WCF antenna support structures not located within a right-of-way is 110-percent of the structure height including antennas, which in this case is 148.5-feet. The proposed tower would be set back approximately 150-feet or greater from the nearest property line. The monopole will not be painted and will remain a non-glare galvanized steel gray which is expected to blend in with the predominant background sky color. A chain link fence will be installed to prevent access within 30-feet of the tower and anti-climb measures to prevent accidental exposure or attractive nuisance. On June 13, 2023, the Applicant certified that the monopole would be built to meet all federal and local Structural and Safety standards and the site would be designed with locked gates, anti-climb fencing and no accessible footholds on the structure to discourage unauthorized access by trespassers (Exhibits 1I, 1T, 1Z, 1R and 1EE)
28. The Applicant has provided a noise statement to the county indicating that it will ensure that the proposed structure, as well as any future equipment used by T-Mobile or other wireless carriers, will comply with county, state and federal noise standards and will not cause noise pollution in excess of established limits. (Ex. 1Z)
29. On behalf of the Applicant, Virtual Site Simulations, LLC, conducted a balloon test on May 18, 2022, and provided photo simulations to evaluate and approximate the visual impact of the proposed monopole. The Applicant mailed notice of the balloon test to property owners within 2,600 feet of the subject property. Virtual Site Simulations, LLC, also conducted computer modeling and data processing to analyze a one (1)-mile study area as typical views from beyond this distance due to topography are distant and partially obscured and therefore omitted to focus on the area that will have a larger visual impact. The results of the balloon test and lidar modeling were consistent and noted by Virtual Site Simulations and the Third Party Review, Andre Consulting, as follows:
- The tower is well obscured in most locations;
 - Year-round views given summer leaf-on conditions indicated that 2.27% of the one mile radius and 1.31% of the area would have specific views of the upper most portion

- of the proposed tower;
 - Specifically, visibility from and across the large farmland/grass area to the west of the site would have the majority of views as would the area .4-miles to the south straddling Boston Harbor Road and the approximately 4.3-acres about 1600-feet to the east;
 - Visibility predicted from water views from within Budd Inlet;
 - Predicted views from the residential area immediately surrounding and within 1100-feet of the site would be partially obscured by existing groundcover and trees;
 - The home across the street at 6347 Zangle Road NE will be able to see the tower;
 - No views are predicted from Burfoot park or Boston Harbor Elementary School. (Exhibits 1V, 2E)
30. EBI Consulting on behalf of the Applicant submitted a “Radio Frequency-Electromagnetic Energy Compliance Report” concluding that all calculations yield results that were within the allowable limits for exposure to RF Emissions. Specifically, the anticipated maximum contribution from each sector of the proposed WCF is 1.1100% of the allowable general public limit established by the Federal Communications Commission. (Exhibit 1EE)
31. The Third Party Review engineer, Andre Consulting, provided a review of the Applicant’s RF that concurred with the RF Report and made the following comments:
- The radio frequency emissions (RF) from a WCF are measured six-feet above ground level at a horizontal distance of 60-feet under the assumption that all antennae are operating continuously at full power in order to derive the maximum possible exposure level;
 - Cell towers rarely transmit at full power and then only to establish communication with a very remote cellular user;
 - Transmissions are not continuous but only during a phone call or data transmission.;
 - The worst case locations tend to be in very unique places near the tower where a normal person would not typically dwell for extended periods;
 - The subject site is well wooded which limits access to the cell tower, especially on private property; the trees will provide absorption of the transmissions.
 - The valuation of public levels of 1.1100% of the Maximum Permissible Exposure Limit may never be experienced by the public. (Exhibit 1V)
32. In regard to concerns that the proposed WCF would impact neighboring property values, ABS Valuation submitted a “Proximity Impact Analysis” which first noted the RRR 1/5 zoning of the subject site and the surrounding parcels, the simulation by Virtual Site Simulations which demonstrated the visual impact of the tower on the nearby area and various home sales across Thurston, Pierce and Kitsap County that were located near a visible cellular communication tower. The sales of these homes were compared to similar properties that did not have the visual impact of a cell tower facility on the whole property sales price as well as the price per square foot. In finding that the analysis results provide no basis for a negative locational adjustment due to view proximity to a cell tower facility, the conclusion was that there is no negative value impact on property due to view proximity to a cell tower. The appraiser then opined as follows:

Such facilities have become part of the expected urban and rural landscape and their existence does not seem to result in a negative value impact to offsite properties. Even if an individual property owner expressed a preference to not to have a view of a cell tower, such a preference does not translate into a market wide negative value impact. Such a preference could also largely be mitigated where such a cell tower facility is camouflaged or screened with perimeter landscaping, or if existing native trees largely screen the tower view. (Exhibit 3B)

33. The Thurston County Environmental Health Division reviewed the proposal and recommended approval, subject to conditions of approval. (Exhibit 1HH)
34. The Thurston County Public Works Department reviewed the project for compliance with Thurston County Road Standards and the Drainage Design & Erosion Control Manual, determined that the preliminary requirements outlined in these documents have been satisfied and recommended approval, subject to conditions. (Exhibit 1II)
35. The Olympic Region Clean Air Agency (ORCAA) reviewed the environmental checklist and commented that in the event future tenant carriers install emergency backup generators, it is possible that approval for the generators will be required. Such comment has been included in the conditions of approval. (Exhibit 1JJ)
36. The Nisqually Indian Tribe reviewed the notice of application and supplemental materials and noted no specific concerns but requested that it be informed if there are any "Inadvertent Discoveries of Archaeological Resources or Human Burials." (Exhibit 1JJ)
37. The Washington State Department of Ecology reviewed the proposal and submitted comments identifying the general and well accepted procedures to follow regarding site clearing, cleanup if contamination is suspected, wells are identified on-site, erosion control and stormwater permits which have been included as conditions of approval. (Exhibit 1JJ)
38. Numerous public comments regarding the proposed WCF were submitted in response to the Notice of Application and the Notice of Public Hearing. In general, individuals who did not reside in the area near the proposed cell tower nor in an area wherein the tower was visible or in the area near the proposal were very supportive due to issues with cell phone coverage in northern Thurston County, particularly in the area between Budd Inlet and Henderson Inlet and surrounding waterways. The comments in opposition to the proposal were from individuals living in or frequently areas where the monopole was visible or simply living in or frequently in an area near the proposed tower. In addition to the individual comments opposing the project, a petition was signed by 69-people in opposition to the tower. (Exhibits 1KK, 3, 3A, 3B, 3C)
39. The reasons for the positive comments were as follows:
 - Cell phone coverage in northern Thurston County, particularly to the area between Budd Inlet and Henderson Inlet and surrounding waterways, is poor as the signal strength in this area is unreliable;

- Public safety: The need to ensure calls for emergency services (911, ambulance service, Fire District) are not jeopardized by inadequate cell phone coverage;
- The expansion of cell phone coverage is a critical part of modern infrastructure, no different than functional roads.

40. The reasons for the negative comments were as follows:

- Visual eyesore inconsistent with the rural area; find a location where the tower would be hidden and out of sight and not destroy the view of a pristine area;
- Proximity to Brinkwood Neighborhood and Boston Harbor Elementary School;
- Devaluation of nearby properties; excerpts from various real estate, business, economic publications were submitted;
- Health concerns due to proximity to the WCF;
- Different location; the owner of the property should not impact the area, especially since he has other properties where the tower could be built;
- Application process: The notice to residents within 2600-feet/one-half mile had an unfair result as the area to the south of the site is undeveloped property owned or managed by the owner of the subject property whereas the majority of residents who will be impacted by the tower reside to the north outside the one-half mile noticed area.;
- No new cell towers should be approved until the Thurston County Code regarding wireless communication facilities is revised.

CONCLUSIONS OF LAW

Jurisdiction:

The Hearing Examiner has the jurisdiction to decide this Special Use Permit application pursuant to Thurston County Code (TCC) provisions 2.06.010, 20.33.040 and 20.54.010(2).

Analysis:

1. The Notice of the Public Hearing was appropriate. (Finding 6)
2. TCC 20.54.040 entitled "General standards," states that "In addition to the specific standards set forth hereinafter with regard to particular special uses, all uses authorized as special uses shall meet the following standards:
 1. Plans, Regulations, Laws. The proposed use at the specified location shall comply with the Thurston County Comprehensive Plan and all applicable federal, state, regional, and Thurston County laws or plans.

The proposed WCF complies with the County Comprehensive Plan (Finding 18). As noted below, the project as proposed and conditioned complies with TCC 20.33 regarding Wireless Communications Facilities. The Applicant has complied with County environmental

regulations by completing an Environmental Site Assessment (Finding 8), a NEPA Environmental Checklist (Finding 11) and a SEPA Checklist (Finding 17). The Applicant also filed an "Informal Biological Assessment (Finding 10),), a "Wetland and Non-Wetland Waters Determination Report" which delineated a wetland located off-site and the appropriate wetland buffer (Findings 12 and 13) and a geotechnical report which found no landslide hazard in the area. (Finding 15) The County issued the Mitigated Determination of Non-Significance which was not appealed. (Finding 17) The Applicant's Special Use Permit application was reviewed and confirmed by a Third Party Reviewer in regard to the applicable FCC guidelines and standards. (Findings 22, 29, 31, 33)

2. Underlying Zoning District. The proposed use shall comply with the general purposes and intent of the applicable zoning district regulations and subarea plans. Open space, lot, setback and bulk requirements shall be no less than that specified for the zoning district in which the proposed use is located unless specifically provided otherwise in this chapter.

The WCF will serve the intent of the RRR 1/5 zone classification as it will provide greater opportunities for protecting sensitive environmental areas, creating open space corridors and enabling utility systems. (Finding 20) The proposed monopole is in compliance with the height and setback requirements of the zone and TCC 20.33.080. (Finding 27)

3. Location. No application for a special use shall be approved unless a specific finding is made that the proposed special use is appropriate in the location for which it is proposed. This finding shall be based on the following criteria:
 - a. Impact. The proposed use shall not result in substantial or undue adverse effects on adjacent property, neighborhood character, natural environment, traffic conditions, parking, public property or facilities, or other matters affecting the public health, safety and welfare. However, if the proposed use is a public facility or utility deemed to be of overriding public benefit, and if measures are taken and conditions imposed to mitigate adverse effects to the extent reasonably possible, the permit may be granted even though the adverse effects may occur.

Locating the WCF on the proposed site will not result in substantial or undue adverse effects on the Boston Harbor area. The Applicant has provided a Noise Statement that the proposed monopole structure will meet noise standards and not cause noise pollution exceeding the limits established by State or local law (Finding 28) and a balloon simulation report concluding there will be low visual impact to surrounding residents (Finding 29). The proposed WCF is outside any critical areas or any associated buffers. (Findings 12 and 13) Although the public submittal of references to publications indicated otherwise, the real estate study submitted by the Applicant concluded that there was no negative value impact results from property located near a cell tower nor from view proximity of cell towers. (Finding 32) A radio frequency emissions report concluded that the RF waves produced by the WCF would be 1.1100-percent of the FCC's maximum permissible exposure levels for the general public. (Finding 30)

- b. Services. The use will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, or services existing or planned to serve the area.

Wireless communication through towers and associated ground equipment has become a common ancillary service to serve the general public and is especially useful for public safety purposes. Herein, given the Siting Alternatives report, the proposal is necessary to provide an appropriate level of wireless communication service to an area that is currently underserved. (Findings 25 and 26)

3. TCC 20.33.050 entitled "Application requirements":

1. Requirements of All Applications.

- a. The Applicant submitted a Special Use Permit application per the requirements of TCC 20.33.050 and TCC 20.60.030. The Application was deemed "Complete" on December 13, 2022, and a "Notice of Application" was mailed by CPED on February 24, 2023, to all property owners within 2,600 feet of the proposed location and to all applicable review agencies (Findings 1 and 4)
- b. The Applicant and Owner submitted an affidavit to dismantle and restore the site as required and to consent to co-location. (Finding 24)
- c. The Applicant provided a coverage analysis prepared by T-Mobile demonstrating that a WCF is necessary to provide reliable and consistent wireless communication service in the north Thurston County area. (Finding 22)
- d. The Applicant has provided a Noise Statement that the proposed monopole structure will meet noise standards and will not cause noise pollution exceeding the limits established by State or local law. (Finding 28)
- e. The Applicant provided Radio Station Authorizations as evidence that T-Mobile is licensed by the FCC. (Finding 24)
- f. The Applicant provided a Letter of Intent executed by T-Mobile confirming intent to lease space on the proposed WCF. (Finding 3)
- g. The Applicant provided a statement and documentation that the WCF will accommodate the co-location of two additional future users at the 120-foot and 110-foot levels, has transmitted certified letters to other wireless services providers offering to allow them to co-locate and has provided a report reviewed by the Third Party Review that there are no co-location possibilities as an alternative to the proposed WCF. (Findings 23 and 24)
- h. The Applicant has submitted documentation from T-Mobile that includes a radiated signal propagation coverage plot to demonstrate the proposed WCF's compliance with FCC guidelines and standards. The Third party reviewer has confirmed the adequacy and accuracy of the information provided to ensure compliance with such guidelines and standards. (Finding 22)

- i. The Applicant certified that the monopole would be built to meet all federal and local Structural and Safety standards. (Finding 27)
- j. The monopole will not be painted and will remain a non-glare galvanized steel gray which is expected to blend in with the predominant background sky color. (Finding 27)
- k. The Applicant has provided the person to be contacted in the event an emergency involves the WCF/antenna support structure. (Finding 27)

2. Additional Requirements.

- a. The proposed monopole structure is compliant with the setback requirement in TCC 20.33.080.3.a. (Finding 27)
- b. The Federal Aviation Administration has issued a “Determination of “No Hazard to Air Navigation” in regard to the proposed WCF. (Finding 16)
- d. The Applicant has sent certified letters to three licensed wireless communication providers indicating opportunities to co-locate. (Finding 24)
- e. The Applicant certified that the monopole would be built to meet all federal and local Structural and Safety standards. Security measures on site would include a six-foot tall chain link fence with barbed wired at the top, a locked gate and anti-climbing devices on the tower. (Finding 27)
- f. The Applicant has submitted an environmental checklist with NEPA. (Finding 11)

3. Additional Requirements.

- a. The Applicant provided the results of the Balloon Test. (Finding 29)
- b. The proposed WCF monopole will have screening by existing mature trees and the fencing by planting arborvitae shrubs and the monopole color will blend in with the sky. (Finding 26 and 27)

4. TCC 20.33.060 entitled “Third party technical review:”

The Third party review confirmed the proposal is in compliance with FCC guidelines and standards. (Findings 22 and 31)

5. TCC 20.33.070 entitled “Co-location”:

Co-location is not possible in the area. (Findings 22 and 23)

6. TCC 20.33.080 entitled “Location and design standards for freestanding WCFs”:

1. Evaluation of Alternative Sites.

Prior to submission of an application for a WCF/antenna support structure, the applicant is encouraged to meet with residents of the search area for the proposed WCF/antenna support structure for the purpose of evaluating alternative sites and exploring the possibility that other technically feasible sites may be available that would be more acceptable to the community.

Prior to submission of the Application for the proposed WCF/antenna support structure, the Applicant met with residents of the search area for the proposed WCF/antenna support structure for the purpose of evaluating alternative sites and exploring the possibility that other technically feasible sites may be available that would be more acceptable to the community. (Finding 1)

2. Siting.

- a. Freestanding WCFs and other antenna support structures regulated by this chapter shall not be permitted in residential districts unless the applicant demonstrates that: a site is not available or technically feasible in a nonresidential district; and the restriction on siting antenna support structures in residential districts would have the effect of prohibiting the provision of personal wireless communication service. Residential districts include, but are not limited to, the following: ... RRR 1/5 . . .
- i. The approval authority may waive the requirement in subsection (2)(a) of this section, consistent with subsection (2)(a)(ii) of this section, if the applicant demonstrates that the proposed site would result in fewer or less detrimental aesthetic and environmental impacts than any other feasible alternative site.
- iii. If a WCF/antenna support structure is necessary in a residential district, preference among available sites shall be given to forested parcels...

The proposed location for the WCF and the areas surrounding the location are zoned Rural Residential/Resource 1/5 zone which permits single-family dwellings at a density of one dwelling unit per 5 acres. To minimize adverse visual impacts associated with the proliferation of WCFs and other antenna support structures, co-location is required except in certain circumstances. (TCC 20.33.070) Co-location is not possible in the subject area. If the Applicant is unable to construct a WCF on the proposed site or within one mile of it, the Applicant is effectively prohibited from providing personal wireless communication services in North Thurston County. (Findings 22 and 23)

When a WCF must be located in a residential district, various provisions in TCC 20.33.080 and 20.33.090 indicate that preference should be given to forested parcels. The subject parcel is forested with mature Western Red Cedar and Douglas fir trees. (Findings 26 and 27)

- b. WCFs and other antenna support structures shall be located, designed and screened, to the extent feasible, to blend with the immediate surroundings so as to reduce visual impacts.

The Applicant proposes to screen and camouflage the facility by retaining trees and shrubs on the property where possible and planting arborvitae shrubs to obscure the chain link fence around the facility. In addition, the monopole is proposed to be non-galvanized steel gray which should blend in with the background sky color. (Findings 26 and 27)

- i. Proposed WCFs/antenna support structures shall be located where their visual impact is least detrimental to views of recognized landmarks, such as, but not limited to, Puget Sound, Nisqually Valley, Mount Rainer, the Black Hills, and the Olympic Mountains. If the approval authority determines that the proposed location for the facility would have a significant detrimental impact on a view of a recognized landmark, she/he shall deny the proposal unless the applicant demonstrates that a less impacting site is not available.

Public comments in opposition to the proposed WCF have included calling it a visual eyesore inconsistent with the rural pristine area and possibly impacting views of Mount Rainier. The balloon test and view-shed analysis concur that with the limited exception of properties in the very immediate vicinity of the proposed site, properties within one mile of the site to the west by northwest direction will be unable see the proposed WCF and will therefore have their views unaffected. (Finding 29)

- ii. In order to demonstrate that a less impacting site is not available, applicants for WCF/antenna support structures impacting the views listed in subsection (2)(b)(i) of this section shall identify all viable alternative sites available for accommodating the WCF/antenna support structure. The applicant shall perform balloon tests for the proposed and alternative sites, in a manner consistent with Section 20.33.050(3), and submit them for approval authority review.

After considering multiple alternative sites to the south, east and west, the Applicant concluded that no viable alternative sites were available for the proposed WCF to achieve the coverage objectives as the WCF must be located on or near the topographical apex in the terrain in the vicinity and have a "line of sight" visibility to the desired coverage area which includes the length of Boston Harbor Road. The locations to the south and east were deemed unsuitable due to a change in elevation of more than 50-feet which would have required the WCF to be significantly taller to avoid a marked reduction in signal propagation. The Applicant also solicited community suggestions as to alternate sites which did not result in the identification of potential alternative sites. (Findings 1 and 25)

- iii. WCFs/antenna support structures shall be sited off ridgelines unless they are designed to blend in with the surrounding environment in such a manner that they would not have a significant visual impact, as determined by the approval authority, or the applicant demonstrates that no alternative location is available.

- iv. In determining whether or not a WCF/antenna support structure will have a significant adverse visual impact on a view/location listed in subsections (2)(b)(i) and (2)(b)(iii) of this section, the approval authority shall at least consider the following:
 - (a) The degree to which the antenna support structure is screened by topographic features from the views listed in subsection (2)(b)(i) of this section;
 - (b) Whether trees and vegetation can be preserved in a manner that would substantially limit the visibility of the proposed WCF/antenna support structure from the views listed in subsection (2)(b)(i) of this section;
 - (c) Whether background features in the line of sight to the proposed WCF antenna support structure would obscure it or make it more conspicuous;
 - (d) Whether the proposed design would reduce the silhouette of the portion of the WCF/antenna support structure extending above surrounding trees, landforms, or structures; and
 - (e) Whether the facility has a camouflage design.
- vi. Unless effectively camouflaged, as determined by the approval authority, WCFs/antenna support structures shall be located on a site to take maximum advantage of the screening afforded by any existing trees, topography, and structures in order to minimize their visibility from the surrounding area, consistent with other applicable regulations. Priority shall be given (in descending order) to minimizing visibility from existing dwellings, public rights-of-way, and public parks and open spaces.
- vii. In residential and commercial districts, flush mounted antennas shall be used unless the applicant demonstrates that another mount is necessary...

The proposed site is located in the center of an undeveloped 2.95-acre area and the adjacent 95-acre parcel has been assigned to a perpetual conservation easement. The Applicant has submitted studies and photographs showing that the proposed monopole will be screened from view to a great extent by existing mature evergreen trees and the ground facility and fencing will be screened by the planting of additional arborvitae shrubs. The monopole will not be painted and will remain a non-glare galvanized steel gray which is expected to blend in with the predominant background sky color. (Findings 5, 7, 26 and 27)

- d. WCFs and other antenna support structures shall be located, designed, and screened to maintain property values and neighborhood character.

As stated above, the proposed WCF will be located in the interior of the subject property and has been designed and screened to blend with the immediate surroundings to reduce visual impacts. Vegetative screening will be used near the sight line base of tower and the steel gray monopole will blend with the background sky. In addition, as stated in the "Proximate Impact Analysis, WCF's have become part of the expected urban and rural landscape and their existence does not seem to result in a negative value impact to offsite properties.

(Findings 5, 7, 26, 27 and 32)

- e. WCFs and other antenna support structures shall be sited consistent with the provisions of the Thurston County Agricultural Uses and Lands Critical Areas Ordinance (Chapter 17.15 TCC), the Thurston County Critical Areas Ordinance (Title 24), and as follows:
- i. To minimize the potential for birds to collide with towers, WCFs/antenna support structures shall not be located within one thousand feet of wetlands, staging areas, or rookeries supporting birds listed as priority species by the Washington Department of Fish and Wildlife, listed as endangered or threatened species under the federal Endangered Species Act (64 FR 14307), listed in Title 24 TCC or Chapter 17.15 TCC as species of local importance, and as amended, or within one thousand feet of publicly owned wildlife refuges, unless the applicant demonstrates that the proposed location will not have a significant impact on such birds. Where possible, WCFs/antenna support structures shall not be located where they would interfere with migratory flyways documented by state or federal agencies....

The Applicant prepared a wetland report which indicated that a wetland is located to the east of the subject parcel that required a 240-foot wetland buffer. Further, the Applicant consulted with the Washington Department of Fish and Wildlife as well as the United States Fish and Wildlife Service and prepared and submitted the SEPA Checklist and the NEPA Checklist which addresses the Migratory Bird Treaty Act as an appendix to the NEPA Checklist. (Findings 10, 11, 12, 13, 14 and 17)

3. Setbacks.

- a. WCFs/antenna support structures, except those in rights-of-way, shall be set back from property lines a minimum of one hundred ten percent of the antenna support structure's height, including antennas. ...
- c. The setbacks required by this subsection (3) shall be measured from the base of the antenna support structure to the property line of the parcel on which it is located. Where guy wire supports are used, setbacks shall be measured from the base of the guy wire anchored to the ground, rather than the base of the tower.
- d. The approval authority may allow the setbacks required pursuant to subsections (3)(a) or (b) of this section to extend into neighboring property if it would result in a substantially better design and it accommodates any screening required pursuant to subsection (7)(d) of this section, provided that the owner of the neighboring property agrees in writing.

This proposed WCF is located in the center of a 2.95-acre undeveloped parcel and is not proposed to be located in the public right-of-way. Thurston County Code provisions 20.90.050.(5), 20.027.030 and 20.33.080.3 provide that a WCF be setback at least 110-

percent of the tower height, including antennas, from all property lines. The proposed monopole is 135-feet tall. In applying the 110% of the tower height, the minimal required setback is 148.5-feet. As noted in the site plan, the distance to the property lines will be 150-feet or greater which will exceed the minimum setback from all property lines. (Finding 27)

4. Separation.

WCFs/antenna support structures shall be separated from one another as follows: a. Within urban growth areas, freestanding WCFs/antenna support structures shall be a minimum of one thousand four hundred feet from another freestanding WCF/antenna support structure. ...

5. Co-location. All freestanding and remote freestanding WCFs/antenna support structures shall be designed and constructed to fully accommodate at least two additional WCF providers, including an area for each co-locator's equipment near the base of the tower, each comparable in size to the area required by the applicant, unless the applicant demonstrates why such design is not feasible for technical or physical reasons (for example, because it would ruin the disguise of a camouflaged antenna support structure)....

In regard to Separation and Co-location, T-Mobile retained Network Connex to identify existing towers or other suitable structure for co-location of antennas and equipment in the vicinity of the proposed site. As of January 4, 2023, no such towers or structures were identified. The analysis provided by Biwabkos Consulting LLC confirmed such conclusion. (Findings 1D and 1P)

6. Maximum Height.

- a. Maximum height outside urban growth areas: one hundred eighty feet including antennas, except remote freestanding WCFs/antenna support structures which may be two hundred feet including antennas
- d. WCFs/antenna support structures shall be of a height that does not require installation of a flashing light or signal in compliance with FAA regulations unless

The maximum permissible height for the proposed WCF on the subject parcel which lies outside the Urban Growth Area in the RRR 1/5 zone is 180-feet. The proposed 135-foot above grade tower has been designed at the minimum height necessary to achieve the specified coverage objectives and to be issued an FAA "Determination of No Hazard to Air Navigation." (Findings 1, 16 and 19)

7. Screening/Camouflaging.

- a. Color.
WCFs/antenna support structures and antennas, with the exception of camouflaged and wooded antenna support structures, shall have a nonglare finish in a gray, blue,

green or other color(s) appropriate to the background against which it would be primarily viewed (e.g., green to the tree line and gray above) as determined by the approval authority, unless a different color or finish is required by the FCC or FAA.

Cables on WCFs/antenna support structures that would be visible from public rights-of-way and residential property must be contained inside the antenna support structure or in conduit colored to blend in with the antenna support structure, as determined by the approval authority. . . .

- d. Screening. WCFs/antenna support structures shall be located among or beside trees wherever possible. . . .
- e. Camouflaged WCFs/Antenna Support Structures. Camouflaged WCFs/antenna support structures shall be designed appropriate to the context, as determined by the approval authority, so they do not appear to be out of place. Camouflage proposals shall be modeled after design concepts approved by the department director or designee.

WCF facilities are required to be located among or beside trees whenever possible. The proposed WCF will be located in the interior of the property and has been designed and screened to blend with the immediate surroundings to reduce visual impacts. The proposed monopole structure will be a galvanized steel gray that is expected to blend with the predominant background sky color. The Applicant will retain and maintain the mature evergreen trees and plant and maintain shrubs on the property where possible to obscure a significant portion of the tower and to obscure the appearance of the ground level chain link fence around the facility. In addition, the conduit connecting the ground-based equipment to antennae mounted on the monopole is commonly black but will be routed within the interior of the monopole and will not be visible from publicly accessible areas. (Findings 5, 7, 26 and 27)

8. Public Safety.

- a. For freestanding WCFs/antenna support structures, a minimum six-foot high chain link fence with privacy slats shall be installed around the perimeter of the site for public safety and screening purposes. The fence and privacy slats shall be a nonreflective, deep green or other color that blends in with the surrounding environment, as determined by the approval authority. (A fence over six feet in height will require a building permit). Access to the tower shall be through a locked gate. The approval authority may authorize alternate methods of providing for public safety if a level of public safety and screening similar to that provided by the previously described fence is clearly demonstrated. These requirements shall not apply to camouflage WCFs and antenna support structures in rights-of way and their associated equipment cabinets unless potentially dangerous equipment would be accessible by the public.
- c. All freestanding and remote freestanding WCFs/antenna support structures, with the exception of replacement utility poles, shall be fitted with anti-climbing devices.

- d. The county shall require remedial action by the responsible party if it determines that structural failure, ice accumulation, or other conditions pose a risk to public safety.
- e. A device shall be installed on all WCFs and antenna support structures that automatically stops transmission from the antennas in the event the antenna support structure falls or shifts significantly out of alignment, unless the applicant demonstrates that it is not technically feasible to do so. This does not apply to remote freestanding WCFs/antenna support structures.
- f. Foundations for replacement utility poles subject to this chapter shall require a commercial building permit.

The Applicant is proposing a six-foot high chain link fence installed around the perimeter of the site to blend in with the surrounding environment which will have barbed wire at the top and a locked gate. The tower will be equipped with an anti-climbing device. (Finding 27)

- 9. Parking/Access. At least one parking space, plus adequate turnaround area, shall be provided. The access road, parking, and turnaround areas shall have a paved, gravel, or other. . .

The Applicant's proposed site plan indicates adequate space for one parking place.

- 10. Signals, Lights and Signs. No signals, lights or signs shall be permitted on a WCF/antenna support structure unless required by the FCC or FAA (also see subsection (6)(d) of this section). If lighting is required, the county shall review the available lighting alternatives consistent with FAA requirements and approve a design that it determines would cause the least impact on surrounding views. However, in documented migratory bird flyways, preference shall be given to white strobe lights operating at the longest interval allowed per FAA requirements.

WCFs/antenna support structures shall have a sign posted on the access gate with the WCF provider name and an emergency contact phone number on it. When the site is not fenced, the sign required above shall be placed in a location authorized by the approval authority. Any site security lighting shall be shielded to contain light and glare on site.

The conditions of approval herein will require the Applicant to comply with all FCC and FAA regulations pertaining to signals, lights and signage.

- 11. Outdoor Storage.

No outdoor storage is proposed.

DECISION: The Applicant has demonstrated that the proposal will be consistent with all applicable codes. Therefore, based on the preceding Findings of Fact and Conclusions of Law, the request for a Special Use Permit to construct and operate a freestanding wireless communication monopole tower facility on an unimproved property near the

intersection of Boston Harbor Road and Zangle Road N.E. is **GRANTED** subject to the following conditions:

Community Planning and Economic Development.

1. The tower shall be no higher than 135 feet above grade.
2. There shall be no rotary converters, generating machinery or other equipment that would cause substantial (above regulated standards at the property lines) odors, smoke, noise, electrical interference or similar disturbances.
3. A six-foot high chain link fence non-reflective green color privacy slats and barbed wire at the top shall be installed around the perimeter of the site for public safety and screening requirements. The fence will have a locked gate.
4. The tower shall be designed, or fitted with appropriate anti-climbing devices, to prevent unauthorized climbing of the tower.
5. A sign will be posted on the access gate with the name T-Mobile Communications and an emergency contact phone number on it. All maintenance lights will only be used when a technician is on site and will automatically turn off within one hour of the technician leaving the site.
6. Ground mounted equipment shall not exceed ten-feet in height.
7. The WCF shall remain in compliance with the Thurston County Wireless Communication Facilities and Antenna Support Structure Chapter (TCC 20.33).
8. If contamination is currently known or suspected during construction, testing of potentially contaminated media must be conducted. If contamination of soil or groundwater is readily visible, or is revealed by testing, The Washington State Department of Ecology must be notified (Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300).
9. The Applicant shall notify Thurston County Community Planning and Economic Development of any changes in ownership, and any significant changes in technology or operation affecting the facility within 60 days of the change. The current owner of the tower must provide all documents containing conditions of approval to each new owner or lessee.
10. All development on the site shall be in substantial compliance with the approved site plan. Any expansion or alteration of this use beyond that initially approved by the Hearing Examiner will require approval of a new or amended Special Use Permit. The Resource Stewardship Department will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.

Public Works.

Roads.

11. The proposed roadway in concept and design shall conform to the Road Standards.
12. A construction permit shall be acquired from the Thurston County Public Works – Development Review Section prior to any construction.

Traffic Control Devices.

13. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, manual of Uniform Traffic Control Devices and applicable WSDOT Standards and Specification. A sign and striping plan shall be incorporated into the construction drawing for the project. Please contact Thurston County Public Works – Development Review Staff to obtain the most current Thurston County guidelines
14. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the applicant shall be transferred to the applicant.

Drainage.

15. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
16. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner and/or the property owners association.
17. Stormwater runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.

Utilities.

18. Proposed utility work within the Thurston County Right of Way shall conform to the Road Standards and Thurston County Code (TCC) Chapter 13.56. These standards do not address specific utility design requirements but rather only items such as restoration of the County right of way and traffic control.
 - A. Placement of utilities within the County right of way will require a Franchise Agreement with Thurston County pursuant to TCC Chapter 13.56. This agreement shall be executed with Thurston County prior to final approval.
 - B., Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a minimum of 0.20-feet of asphalt concrete pavement.

General.

19. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.

20. The proposed grading or site work shall conform to Appendix J of the International Building Code, title 14.37 of the Thurston County Code and Drainage Design & Erosion Control Manual.
21. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section at 360.867.2051 for a final inspection.
22. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant. One permit that may be required is a Construction Stormwater Permit from the Washington State Department of Ecology. Information on when a Construction Stormwater Permit is required as well as the application can be accessed at <http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>.

Project Specific.

23. Once the Thurston County Planning Department has issued the official approval, submit two (2) complete full size sets of construction drawings, the final drainage and erosion control report and all applicable checklists along with an electronic copy to Thurston County Public Works – Development Review Section for review and acceptance. The Final Drainage Report shall address all comments in the Stormwater Scoping Report Response dated 5-4-23 which can be accessed at <https://weblink.co.thurston.wa.us/dspublic/0/doc/16520564/Page1.aspx>.
24. PRIOR to construction, the Applicant shall:
 - a. Pay outstanding construction review and inspection fees.*
 - b. Receive an erosion and sediment control permit.
 - c. Have the erosion and sediment control inspected and accepted.
 - d. Receive a construction permit.
 - e. Schedule a pre-construction conference with County staff.

The current fee schedule can be accessed on-line at:

<http://www.co.thurston.wa.us/permitting/fees/fees-home.html>

or contact Ruthie Padilla with the Thurston County Public Works – Development Review Section by phone at 360-867-2050, or by e-mail at ruthie.moyer@co.thurston.wa.us.

General Information.

Final Review.

25. Prior to receiving final approval from the Thurston County Public Works Department, the following items shall be required:
 - a. Completion of all roads and drainage facilities.
 - b. Final inspection and completion of all punch list items.
 - c. Record drawings submitted for review and acceptance. The recorded drawings shall include street names and block numbers approved by Addressing Official.
 - d. Receive and accept Engineer's Construction Inspection Report Form (Appendix I-C,

- Volume I of the Drainage Design and Erosion Control Manual).
- e. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
 - f. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
 - g. Completion of required signing.
 - h. Payment of any required permitting fees.

(Please note that this recommendation is not an approval. Contact your Thurston County Planner for current status of the review process. If you have any questions or comments, please call (360) 867- 2043.)

Environmental Health.

- 26. Prior to issuance of the building permit, the existing well located on the project site must be decommissioned by a licensed well driller per Washington State Department of Ecology standards. A copy of the decommissioning report must be provided to Environmental Health
- 27. Prior to issuance of the building permit, the existing on-site septic system located on the project site must be properly abandoned per Article IV of the Thurston County Sanitary Code. An abandonment permit is required and abandonment documentation from a Thurston County certified septic system pumper must be submitted.
- 28. Diesel generators located on the site must meet all storage and secondary containment requirements as outlined in Article VI of the Thurston County Sanitary Code and Chapter 24.10, Sections 24.10.50 and 24.10.120 of the Thurston County Critical Areas Ordinance.
- 29. The project must comply with the noise standards of Thurston County Code, Chapter 10.36 and Washington Administrative Code (WAC), Chapter 173.60.

Mitigated Determination of Non-Significance.

- 30. All grading and filling of land must utilize only clean fill. All other materials may be considered solid waste and permit approval may be required from your local jurisdictional health department prior to filling. All removed debris resulting from this project must be disposed of at an approved site. Contact the local jurisdictional health department or Department of Ecology for proper management of these materials.
- 31. If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the southwest Regional Office (SWRO) at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact Thomas Middleton with the SWRO, Toxics Cleanup Program at the phone number provided below.
- 32. Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and

other pollutants into surface waters or stormdrains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants. Any discharge of sediment laden run-off or other pollutants to waters of the State is in violation of Chapter 90.48 RCW, Water 2022106056 Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

Construction Stormwater General Permit.

The following construction activities require coverage under the Construction Stormwater General Permit:

- a. Clearing, grading and/or excavation that results in the disturbance of one or more acres and discharges stormwater to surface waters of the State; and
- b. Clearing, grading and/or excavation on sites smaller than one acre that are a part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more and discharge stormwater to surface waters of the State.
- c. Any size construction activity discharging stormwater to waters of the State that Ecology:
 - (1) Determines to be a significant contributor of pollutants to waters of the State of Washington.
 - (2) Reasonably expects to cause a violation of any water quality standard.

If there are known soil/ground water contaminants present on-site, additional information (including but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted. For additional information on contaminated construction sites, please contact Evan Wood at evan.wood@ecy.wa.gov , or by phone at (360) 706-4599.

Additionally, sites that discharge to segments of waterbodies listed as impaired by the State of Washington under Section 303(d) of the Clean Water Act for turbidity, fine sediment, high pH, or phosphorous, or to waterbodies covered by a TMDL may need to meet additional sampling and record keeping requirements. See condition S8 of the Construction Stormwater General Permit for a description of these requirements. To see your site discharges to a TMDL or 303(d)-listed waterbody, use the Department of Ecology's Water Quality Atlas at <https://fortress.wa.gov/ecy/waterqualityatlas/StartPage.aspx>.

The Applicant may apply online or obtain an application from Ecology's website at <http://www.ecy.wa.gov/programs/wq/stormwater/constructin/-Application>. Construction site operators must apply for a permit at least 60 days prior to discharging stormwater from construction activities and must submit it on or before the date of the first public notice.

33. Olympic Region Clean Air Agency (ORCAA) reviewed the environmental checklist for the "ARX Wireless New WCF Tower" proposal located at 6328 Zangle Road NE, Olympia, WA 98502. The environmental checklist notes that once the project is complete, future tenant carriers may install emergency backup generators. In this regard, ORCAA has commented:

It is possible that approval for an emergency generator is required. Stationary internal combustion engines with a rated capacity of 500 horsepower or greater and used for standby emergency power are sources of air pollution and require approval by ORCAA through a Notice of Construction (NOC) application prior to being installed. Additional information, application instructions, and forms are available on our website, <https://www.orcaa.org/for-business/business-assistance/>.

ORDERED this 1st day of December, 2023.



STEPHEN R. SHELTON

Pro Tem Hearing Examiner

TRANSMITTED this 1st day of December, 2023, to the following:

OWNER:

Stephen M. Connor
P.O. Box 977
Petersburg, AK 99833

APPLICANT:

ARX Wireless
110 Washington Ave
North Haven, CT 06473

POINT OF CONTACT:

Terrence Danysh, Attorney at Law
PRK Livengood PLLC
10900 NE 4th St., Ste 1850
Bellevue, WA 98004

OTHERS:

Brett Bures, Permitting Manager
Thurston County Development Services
3000 Pacific Ave SE
Olympia WA 98501

Parties Of Record

THURSTON COUNTY
PROCEDURE FOR RECONSIDERATION AND APPEAL
OF HEARING EXAMINER DECISION TO THE BOARD

NOTE: THERE MAY BE NO EX PARTE (ONE-SIDED) CONTACT OUTSIDE A PUBLIC HEARING WITH EITHER THE HEARING EXAMINER OR WITH THE BOARD OF THURSTON COUNTY COMMISSIONERS ON APPEALS (Thurston County Code, Section 2.06.030).

If you do not agree with the decision of the Hearing Examiner, there are two (2) ways to seek review of the decision. They are described in A and B below. Unless reconsidered or appealed, decisions of the Hearing Examiner become final on the 15th day after the date of the decision.* The Hearing Examiner renders decisions within five (5) working days following a Request for Reconsideration unless a longer period is mutually agreed to by the Hearing Examiner, applicant, and requester.

The decision of the Hearing Examiner on an appeal of a SEPA threshold determination for a project action is final. The Hearing Examiner shall not entertain motions for reconsideration for such decisions. The decision of the Hearing Examiner regarding a SEPA threshold determination may only be appealed to Superior Court in conjunction with an appeal of the underlying action in accordance with RCW 43.21C.075 and TCC 17.09.160. TCC 17.09.160(K).

A. RECONSIDERATION BY THE HEARING EXAMINER (Not permitted for a decision on a SEPA threshold determination)

1. Any aggrieved person or agency that disagrees with the decision of the Examiner may request Reconsideration. All Reconsideration requests must include a legal citation and reason for the request. The Examiner shall have the discretion to either deny the motion without comment or to provide additional Findings and Conclusions based on the record.
2. Written Request for Reconsideration and the appropriate fee must be filed with the Resource Stewardship Department **within ten (10) days of the written decision**. The form is provided for this purpose on the opposite side of this notification.

B. APPEAL TO THE BOARD OF THURSTON COUNTY COMMISSIONERS (Not permitted for a decision on a SEPA threshold determination for a project action)

1. Appeals may be filed by any aggrieved person or agency directly affected by the Examiner's decision. The form is provided for this purpose on the opposite side of this notification.
2. Written notice of Appeal and the appropriate fee must be filed with the Community Planning & Economic Development Department **within fourteen (14) days of the date of the Examiner's written decision**. The form is provided for this purpose on the opposite side of this notification.
3. An Appeal filed within the specified time period will stay the effective date of the Examiner's decision until it is adjudicated by the Board of Thurston County Commissioners or is withdrawn.
4. The notice of Appeal shall concisely specify the error or issue which the Board is asked to consider on Appeal, and shall cite by reference to section, paragraph and page, the provisions of law which are alleged to have been violated. The Board need not consider issues, which are not so identified. A written memorandum that the appellant may wish considered by the Board may accompany the notice. The memorandum shall not include the presentation of new evidence and shall be based only upon facts presented to the Examiner.
5. Notices of the Appeal hearing will be mailed to all parties of record who legibly provided a mailing address. This would include all persons who (a) gave oral or written comments to the Examiner or (b) listed their name as a person wishing to receive a copy of the decision on a sign-up sheet made available during the Examiner's hearing.
6. Unless all parties of record are given notice of a trip by the Board of Thurston County Commissioners to view the subject site, no one other than County staff may accompany the Board members during the site visit.

C. STANDING All Reconsideration and Appeal requests must clearly state why the appellant is an "aggrieved" party and demonstrate that standing in the Reconsideration or Appeal should be granted.

D. FILING FEES AND DEADLINE If you wish to file a Request for Reconsideration or Appeal of this determination, please do so in writing on the back of this form, accompanied by a nonrefundable fee of **\$821.00** for a Request for Reconsideration or **\$1,112.00** an Appeal. Any Request for Reconsideration or Appeal must be **received** in the Building Development Center at 3000 Pacific Ave SE, Suite 100 no later than 4:00 p.m. per the requirements specified in A2 and B2 above. **Postmarks are not acceptable**. If your application fee and completed application form is not timely filed, you will be unable to request Reconsideration or Appeal this determination. The deadline will not be extended.

* Shoreline Permit decisions are not final until a 21-day appeal period to the state has elapsed following the date the County decision becomes final.



Project No. _____
Appeal Sequence No.: _____

☐ Check here for: **RECONSIDERATION OF HEARING EXAMINER DECISION**

THE APPELLANT, after review of the terms and conditions of the Hearing Examiner's decision hereby requests that the Hearing Examiner take the following information into consideration and further review under the provisions of Chapter 2.06.060 of the Thurston County Code:

(If more space is required, please attach additional sheet.)

☐ Check here for: **APPEAL OF HEARING EXAMINER DECISION**

TO THE BOARD OF THURSTON COUNTY COMMISSIONERS COMES NOW _____
on this _____ day of _____, 20____, as an APPELLANT in the matter of a Hearing Examiner's decision
rendered on _____, 20____, by _____ relating to _____

THE APPELLANT, after review and consideration of the reasons given by the Hearing Examiner for his decision, does now, under the provisions of Chapter 2.06.070 of the Thurston County Code, give written notice of APPEAL to the Board of Thurston County Commissioners of said decision and alleges the following errors in said Hearing Examiner decision:

Specific section, paragraph and page of regulation allegedly interpreted erroneously by Hearing Examiner:

1. Zoning Ordinance _____
2. Platting and Subdivision Ordinance _____
3. Comprehensive Plan _____
4. Critical Areas Ordinance _____
5. Shoreline Master Program _____
6. Other: _____

(If more space is required, please attach additional sheet.)

AND FURTHERMORE, requests that the Board of Thurston County Commissioners, having responsibility for final review of such decisions will upon review of the record of the matters and the allegations contained in this appeal, find in favor of the appellant and reverse the Hearing Examiner decision.

STANDING

On a separate sheet, explain why the appellant should be considered an aggrieved party and why standing should be granted to the appellant. This is required for both Reconsiderations and Appeals.

Signature required for both Reconsideration and Appeal Requests

APPELLANT NAME PRINTED _____

SIGNATURE OF APPELLANT _____

Address _____

Phone _____

Please do not write below - for Staff Use Only:

Fee of ☐ \$821.00 for Reconsideration or \$1,112.00 for Appeal. Received (check box): Initial _____ Receipt No. _____
Filed with the Community Planning & Economic Development Department this _____ day of _____, 20____.