

**STAFF REPORT
MACC TOWER**

TO: Douglas County Hearing Examiner
FROM: Douglas County Land Services Staff
RE: Multi Agency Communications Center (MACC), CUP-09-04
DATE: January 8, 2010

I. GENERAL INFORMATION

Requested Action: Multi Agency Communications Center (MACC) has submitted a conditional use permit application to install a new 150 foot self-supporting tower and 27'6"x11'6" pre-fabricated equipment building, to upgrade public safety communications for the first responders and public in Grant County.

Location: The subject property is located on Rd 5 NE (Ted Rice Rd), East of the SR 17 intersection, near Coulee City WA, and is further described as being located in the Southwest ¼ of Section 7, Township 25 North, Range 28 East, W.M., Douglas County, Washington. The Douglas County Assessor Number for the subject property is 25280710000.

II. SITE INFORMATION

Total Project Size: +/- 156 acres, tower to be located in leased 100'x100' area
Power/Electricity: Douglas County PUD
Fire Protection: Douglas County Fire District #8

Site Characteristics: The site is relatively flat to rolling.

Surrounding Property: The surrounding property is farmland, or vacant land.

Access: The project accesses Road Rd 5 NE, a public street.

Zoning and Development Standards: The subject property is located within the Dryland Agricultural Zoning District, which telecommunication facilities can be permitted via a conditional use permit.

III. COMPREHENSIVE PLAN:

The Douglas County Countywide Comprehensive Plan designates this property as Dryland Agriculture. The following goals and policies set forth in the comprehensive plan are relevant to this development:

UTILITIES:

GOAL: Development in Douglas County will only occur in conjunction with the availability of adequate, cost effective provision of utilities. The installation and expansion of utilities will be coordinated to minimized cost and disruption of normal activities.

U-3. Utility and energy facilities with the least impact to the public health, safety and the

environment are encouraged.

- U-4. Require that development take into account the timely and concurrent provision of adequate and efficient utility systems.
- U-5. Provide utilities at service levels that are appropriate for the specific land uses and areas, thereby avoiding excess capacities that may encourage growth beyond the desired densities of an area.

GEOLOGICALLY HAZARDOUS AREAS:

GOAL: The County will provide appropriate measures to either avoid or mitigate significant risks that are posed by geologic hazard areas to public and private property and to public health and safety.

- CA-42. Potential impacts and alternative mitigation measures to eliminate or minimize the impacts in identified geologic hazard areas shall be documented during the review of development applications.
- CA-48. Applications for development within or in close proximity of a geologically hazardous area shall include preliminary information to assist the County in determining the need for any specialized reports from a geologist or geo-technical engineer. Review criteria will be established to assist county staff in making said determination.
- CA-49. All proposed development projects located within a geologic hazard area, or that have the potential to adversely affect the stability of one of these areas, may be required to provide studies performed by qualified consultants describing the existing nature of the hazard and necessary safety precautions. The subsequent report from the geo-technical engineer and/or geologist should clearly identify the risk of damage from the project, both on-site and off-site, whether the proposal increases the risk of occurrence of the hazard, and whether the proposal has incorporated measures to eliminate or reduce the risk of damage due to the hazard.

IV. ZONING CODE AND DEVELOPMENT STANDARDS:

Applicable provisions and requirements of D.C.C.18.40 - Dryland Agriculture (A-D) Zoning District: The subject property is within the Dryland Agriculture (A-D) Zoning District, which allows for distribution and transmission facilities as conditional uses.

Applicable provisions and requirements of D.C.C., Chapter 18.16, "General Regulations" include but are not limited to:

- Fences are limited to six (6) feet in height per D.C.C. 18.16.060.
- Building setback requirements of D.C.C. 18.16.080.

Applicable provisions and requirements of D.C.C. 19.18D, "Resource Lands/Critical Areas-Geologically Hazardous Areas" include but are not limited to:

B. Step Two. If it is determined that a geologically hazardous area may be present, the applicant shall submit a geologic hazard area risk assessment prepared by an engineer or a geologist. The risk assessment shall include a description of the geology of the site and the proposed development; an assessment of the potential impact the project may

have on the geologic hazard; an assessment of what potential impact the geologic hazard may have on the project; appropriate mitigation measures, if any; and a conclusion as to whether further analysis is necessary. The assessment shall be signed by and bear the seal of the engineer or geologist that prepared it. No further analysis shall be required if the geologic hazard area risk assessment concludes that there is no geologic hazard present on the site, nor will the project affect or be affected by any potential geologic hazards that may be nearby.

C. Step Three. If the professional preparing the risk assessment in step two concludes that further analysis is necessary, the applicant shall submit a geotechnical report consistent with the provisions of DCC 19.18.120.

Applicable provisions and requirements of D.C.C. 18.76 – Telecommunication Facilities:

The following standards shall be addressed when locating a telecommunications facility:

- 1) General.
 - a) Broadcast and relay towers shall not be used for signage, symbols, flags, banners, or other devices or things attached to or painted or inscribed upon any telecommunication facility for the purposes of displaying a message of any kind, except as required by a governmental agency.
 - b) Facilities shall not be used for purposes other than the intended use approved by the review authority, and other local and state agencies.
 - c) The construction and installation of antenna support structures, antennas, antenna arrays, the installation or placement of antenna arrays on buildings, and the placement of antennas on alternate antenna support structures, shall be subject to the requirements of the Uniform Building Code (UBC).
 - d) Telecommunication facilities shall be designed in a manner that would not require artificial lighting, except as required by the Federal Aviation Administration or other governmental agency.
- 2) Setback and Yard Areas.
 - a) Where permitted, broadcast and relay towers shall be constructed and installed as far away from existing off-site buildings as is reasonably possible, and in no event nearer to any public road, alley, off-site primary or accessory structure, railroad track, or public parks than a minimum distance of one hundred fifteen percent of the height of the tower.
 - b) Telecommunication facilities reviewed under this chapter shall not be located within any required building setback or yard area.
- 3) Minimum Lot Size. The minimum lot size of the district may be waived by the review authority on finding that the waiver will not result in adverse impact from noise, light, glare, drainage or other detrimental effects to adjacent property. This waiver shall not be construed as an exemption from the requirements of DCC Title 17 and Chapter 58.17 RCW.
- 4) Design Considerations.
 - a) To the extent technically feasible and in compliance with safety regulations, specific colors of paint, camouflage or other means may be required for the broadcast and relay tower in order to blend better with its natural surroundings.

- b) Applications shall document that the proposed tower and any mounting bases are designed to withstand wind and seismic loads as established by the Uniform Building Code and the DCC.
- c) Facilities located within rural or agricultural districts, (except devices co-located on existing tower or facility structures, rural service centers or master planned resorts), and when not located within a tower farm shall be screened from public view with one or a combination of the following methods: natural geographical features such as ridgetops or topography, vegetation, fencing, walls or structures.

V. ENVIRONMENTAL REVIEW

Douglas County issued a Determination of Non-significance on January 7, 2010 in accordance with WAC 197-11-355 (Optional DNS).

VI. AGENCY AND PUBLIC COMMENTS:

Applicable agencies have been given the opportunity to review this proposal. Agency comments have been included as Appendix A. No public comments were submitted on this proposal at the time of staff review.

VII. PROJECT ANALYSIS

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

Comprehensive plan consistency:

The proposed subdivision is consistent with the goals and policies of the comprehensive plan. The development is within the unincorporated portion of the County-wide Comprehensive Plan and meets the goal of developing and providing utility services to accommodate the growth of the area. The provision of distribution and transmission facilities at this site will increase and improve telecommunication service in the area.

Consistency with the provisions of the A-D Zoning District, Chapter 18.40, D.C.C.:

The proposed project is consistent with the development and performance standards of the district.

Consistency with Chapter 18.16, "General Regulations", D.C.C.:

The proposed project is consistent with the general regulations of D.C.C. 18.16.

Applicable provisions and requirements of D.C.C. 18.76 – Telecommunication Facilities:

This proposal is consistent with all of the reviewing criteria for utility facilities and the general requirements of the applicable chapter. The proposed 150-foot tower will have a non-reflective finish to help minimize scenic impact. The applicant proposes leasing a

piece of land to accommodate the tower and ground equipment. The leasing of land is not in violation of State and local regulations as RCW 58.17.040 specifically exempts facilities providing personal wireless services from state subdivision regulations.

The preference outlined in the code is for telecommunication facilities to co-locate their services on existing towers. The applicant attempted to locate suitable collocation sites throughout the nearby current proposed project area but was unable to locate a facility or tower that met the location or structural needs. The applicant welcomes other carriers which propose to locate antennas on the facility.

There is a special exceptions provision available in DCC 18.76.120. This is available when adherence to all development standards of this chapter would result in a physical barrier which would block signal reception or transmission or prevent effective communication in all permissible locations, a special exemption may be permitted provided the criteria enumerated below is met. Exceptions do not apply to variations from the International Codes.

- a. The applicant shall provide documentation that demonstrates that the obstruction or inability to receive a communication signal is the result of factors beyond the property owner's or applicant's control. Documentation shall consider potential permitted development on adjacent and neighboring lots with regard to future reception window obstructions.

Staff response: The applicant has submitted a packet titled 'Special Exception Request' to be permitted to construct the tower approximately 73 feet from the property line. The required setback distance is 115% the height of the tower which is a 172.5 foot setback in this instance. This packet includes a narrative and documentation in regard to the microwave path intersections and elevations necessary to effectively construct the proposed tower. A survey was completed to determine the elevations of the terrain in the microwave beam path. Also included is a structural analysis report, and email correspondence in relation to adding height to the tower, which would be necessary if moving the tower to meet required setback distances. Relocation of the tower does not appear possible while maintaining the required redundant communication signals with two other sites. The elevations of obstructing terrain which would obstruct signal transmissions have been verified by a professional land surveyor. Additional measures have been proposed by the applicant, including upgrading of the tower design to a higher standard for wind and ice load conditions. Staff believes that the applicant has met the burden of proof and the intent of the special exception criteria section.

Staff does not anticipate any adverse impacts to adjacent property owners from noise, light, glare, drainage or any other detrimental effects. The telecommunication facility will be unattended by personnel and is self-supported, urban services other than electricity and telephone will not be required.

As conditioned the proposal appears consistent with the development standards of this chapter.

Applicable provisions and requirements of D.C.C. 18.80 – Conditional Uses:

The project is consistent with the review criteria established for telecommunication facilities established in D.C.C. 18.80.

Consistency with the provisions and requirements of D.C.C., Chapter 19.18D, “Resource Lands/Critical Areas-Geologically Hazardous Areas”:

The geotechnical report submitted by the applicant’s engineer identified specific requirements for construction of the telecommunication facility. Staff recommends that the conclusions and recommendations of the geotechnical report be incorporated into the building permit application and that a licensed engineer certify the incorporation of the recommendations into the design and construction of the structure.

Consistency with Title 20, “Development Standards”, D.C.C.:

As conditioned the proposal appears consistent with the development standards of Title 20, D.C.C.

Agency comments:

Agency comments are enclosed as Attachment A.

The Douglas County Building Official has stated that a commercial building permit is required for the proposed tower and ground structures. The applicant must provide a completed commercial building permit application form and two sets of engineered certified plans including tower base and building slab for review. Special inspections, as required in the 2006 IBC, including but not limited to: tower connections (high strength bolting)), footing reinforcement, concrete, and soil compaction are required. See page 3 of the October 2, 2009, GeoEngineers report for site work requirements. All recommendations included in the Geotechnical Report are required to be implemented.

The Department of Ecology states that water rights may be required for dust suppression if 5,000 gallons per day is exceeded. A NPDES Construction Stormwater General Permit may also be required if there is a potential for stormwater discharge from a construction site with more than one acre of disturbed ground.

The Bonneville Power Administration does not object to the proposal.

Douglas County PUD stated that they have no comments.

The Douglas County Fire District states that the generator fuel tank is proposed to be stored inside a room. A brief review of the IFC indicates a hazardous materials storage room is necessary for fuel gas storage. An exterior storage tank, located in compliance with IFC has lower requirements for fire protection.

Douglas County Transportation states transportation and stormwater conditions, listed in the recommended conditions of approval.

VIII. RECOMMENDATION

As conditioned below, this application does not appear to be detrimental to the general public health, safety or welfare and meets the basic intent and criteria associated with Title 18 of the Douglas County Code, and the Douglas County Countywide Comprehensive Plan. Staff recommends approval of CUP#09-04, subject to the following findings of fact and conditions:

Suggested Findings of Fact

This recommendation is based on the following findings of fact:

1. The applicant is Multi Agency Communications Center (MACC),, 6500 32nd Ave NE, Suite 911, Moses Lake, WA 98837.
2. General Description: Multi Agency Communications Center (MACC) has submitted a conditional use permit application to install a new 150 foot self-supporting tower and 27'6"x11'6" pre-fabricated equipment building.
3. Location: The subject property is located on Rd 5 NE (Ted Rice Rd), East of the SR 17 intersection, near Coulee City WA, and is further described as being located in the Southwest ¼ of Section 7, Township 25 North, Range 28 East, W.M., Douglas County, Washington. The Douglas County Assessor Number for the subject property is 25280710000.
4. Site Information:
Total Project Size: +/- 156 acres, tower to be located in leased 100'x100' area
Power/Electricity: Douglas County PUD
Fire Protection: Douglas County Fire District #8
5. Site Characteristics: The site is relatively flat to rolling.
6. Surrounding Property: The surrounding property is farmland, or vacant land.
7. Access: The project accesses Road Rd 5 NE, a public street.
8. The subject property is located in the A-D Zoning District.
9. Telecommunication facilities are permitted in the Dryland Agriculture (A-D) Zoning District upon approval of a conditional use permit.
10. Comments from reviewing agencies have been considered and addressed where appropriate.
11. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.

12. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
13. The applicant has demonstrated siting criteria per D.C.C. 18.76.100(E).
14. Douglas County issued a Determination of Non-significance on January 7, 2010 in accordance with WAC 197-11-355 (Optional DNS).
15. RCW 58.17.040 permits the leasing land for facilities providing personal wireless services.
16. A setback of 115% of the tower height is required by DCC 18.76.160.B.1. The proposed project does not meet the required setback, however the special exception provision of DCC 18.76.120 has been met. Relocation of the tower does not appear possible while maintaining the required redundant communication signals with two other sites. The elevations of obstructing terrain which would obstruct signal transmissions have been verified by a professional land surveyor. Additional measures have been proposed by the applicant, including upgrading of the tower design to a higher standard for wind and ice load conditions.
17. Soil mapping from the Natural Resource Conservation Services Department indicate the presence of steep and severe building soils on the subject property. The applicant has submitted a geotechnical report prepared by GeoEngineers, Inc. dated October 2, 2009 in order to meet the requirements of Douglas County Code Chapter 19.18D, "Resource Lands/Critical Areas-Geologically Hazardous Areas"
18. An exterior storage tank, located in compliance with IFC has lower requirements for fire protection.
19. The public ROW (Road 5 NE) currently serves only one residence, and an alternative route via public ROW is available to access that residence if Road 5 NE were obstructed. Douglas County Transportation is supportive of approval of the project as submitted.
20. As conditioned, the development will not adversely affect the general public health, safety and general welfare.
21. As conditioned, the proposal is consistent with Title 18, "Zoning"; Title 19, "Environment"; and Title 20, "Development Standards", of Douglas County Code and the goals and policies of the Douglas County Countywide Comprehensive Plan.

Suggested Conclusions

1. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interests will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Title 18 "Zoning" of the Douglas County Code.

Suggested Conditions of Approval

1. The project shall proceed in substantial conformance with the plans and application materials submitted November 24, 2009 and on file except as amended by the conditions herein.
2. Concurrent with the submittal of a building permit application, the applicant must provide a letter from a licensed geotechnical professional that all site, construction, and building plans are consistent with and conform to the recommendations contained in the geologic hazards assessment from GeoEngineers, dated October 2, 2009.
3. The commercial building permit must meet all IFC requirements.
4. Per D.C.C.18.76.180; the property owner, applicant and/or co-applicant shall maintain the telecommunication facility and the site in good repair. Such maintenance shall include, but shall not be limited to, painting, structural integrity and landscaping. Failure to maintain the facility may result in enforcement action pursuant to DCC Chapter 14.92, including permit revocation.
5. Per D.C.C. 18.76.200; any telecommunications support structure that has been discontinued for a period of one hundred eighty successive days, or if the antenna(s) mounted thereon are not operated for a period of one hundred eighty successive days, shall be considered abandoned, and the owner thereof shall remove such structure and any accompanying equipment enclosure within ninety days. If such structure and equipment enclosure are not removed, the county may seek and obtain a court order directing such removal and impose a lien upon the real property upon which such structure is situated in an amount equal to the cost of the removal.
6. Utility installation/replacement/upgrade within the Douglas County right-of-way, including but not limited to Road 5 NE (Ted Rice Road) shall be approved by

Douglas County. A permit for work within the right-of-way shall be obtained prior to construction. Contact Tracy Petersen, Utilities Coordinator, (509) 884-7173. Damage to existing roads, both public and private, (including but not limited to Road 5 NE (Ted Rice Road)) resulting from construction activities (including utility extensions required to provide necessary services to the proposed development) shall be repaired to the satisfaction of Douglas County, by the applicant. The extent of repair and/or replacement will be determined during construction plan review and during field inspection of the proposed work within the right-of-way. Repair of existing road surfaces may include overlays of the existing road surface, full or half width, depending upon the extent of impact to the existing road surface due to the construction activities. Existing moratoriums on public roads may limit utility work to boring or pushing. DCC 12.20.060, *Specific requirements - Underground utilities*.

7. The applicant shall be responsible for preventing mud, dirt and debris from leaving the site, including stormwater runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
8. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW). Best Management Practices shall be employed to prevent runoff from flowing over the site slopes. Disturbed areas shall be re-vegetated and maintained throughout construction. Final grading shall incorporate permanent erosion control measures which routes stormwater runoff away from site slopes and directs the collected water to appropriate discharge locations.
9. The following core elements requirements contained in the SWMMEW – Stormwater Management Manual for Eastern Washington, must be satisfied by the Developer prior to acceptance of the construction plans:
 - Core Element #1 Preparation of a stormwater site plan
 - Core Element #2 Construction of stormwater pollution prevention
 - Core Element #3 Source control of pollution
 - Core Element #4 Preservation of natural drainage systems
 - Core Element #5 Runoff Treatment
 - Core Element #7 Operation and Maintenance
10. Individual/common plan of development for this proposal may exceed 1 acre of disturbed ground. This would meet the threshold used by the Washington State Department of Ecology in administering their General Permit to Discharge Storm Water Associated with Construction Activity. If required, the permit shall be obtained prior to beginning ground-breaking activities. The Department of Ecology contacts for this area are Bryan Neet, (509) 575-2808, bneet461@ecy.wa.gov, and Cory Hixon, (509) 454-4103, chix461@ecy.wa.gov. Acquisition of permits is the responsibility of the applicant.

11. Appropriate measures to prevent sediment from leaving the site shall be maintained until such time as all on-site soils are stabilized. Prior to any on-site grading taking place, a temporary erosion/sedimentation control plan (SWPPP- Stormwater Pollution Prevention Plan), showing the location and control measures intended to minimize the effects of erosion and siltation due to construction operations shall be submitted and accepted by the County. This plan shall be maintained on-site at all times and modified as necessary to address erosion issues as they arise. Additional erosion controls shall be implemented as necessary to prevent sediment from leaving the site.
12. One access point for construction activities shall be approved. A stabilized construction access for the site shall be shown on the Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be submitted and accepted prior to on-site grading taking place.
13. An access easement to reach the leased area across adjacent property must be recorded and submitted with the building permit.
14. The building permit shall be signed by the property owner.

Respectfully Submitted,

Marla Olson
Senior Planner

Attachments