

October 1, 1997

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON  
700 Central Building, 810 Third Avenue  
Seattle, Washington 98104  
Phone (206) 296-4660 Fax (206) 296-1654

REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL

**SUBJECT:** King County Department of Development and  
Environmental Services File No. **L97UU002**  
Proposed Ordinance No. 97-573

**FEDERAL WAY/800 MHz REGIONAL RADIO SYSTEM**  
Special Use Permit Application

**Location:** Located on Fire District 39 property, at the Southeast corner of 32nd Avenue South  
and South 360th Street

**Applicant:** King County Emergency Services Division  
Represented by Michael Aippersbach  
P.O. Box 95429  
Seattle, WA 98145

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

**PRELIMINARY MATTERS:**

Application submitted: June 24, 1997  
Notice of complete application: July 22, 1997

**EXAMINER PROCEEDINGS:**

Hearing Opened: September 30, 1997  
Hearing Closed: September 30, 1997

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.  
A verbatim recording of the hearing is available in the office of the King County

Hearing Examiner.

**ISSUES ADDRESSED:**

- Antennae/electronic transmission facilities
- Buffers
- Landscaping

**FINDINGS, CONCLUSIONS & RECOMMENDATION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Applicant:	King County Emergency Services Division
Location:	Located on Fire District 39 property, at the Southeast corner of 32nd Avenue South and South 360th Street
STR:	27-21-04/Parcel No. 272104-9034
Zoning:	R 4
Proposed Use:	Construction of a 260-foot lattice tower with antennas attached for an overall height of 270 feet, and an equipment building 25 feet by 51 feet to provide emergency communications for the southwest portion of King County
Complete	
Application Date:	July 22, 1997
Threshold Determination:	Determination of Nonsignificance
Issuance Date:	August 5, 1997
King County Permits:	Special Use Permit L097UU002 Building Permit (to be submitted)
Permit/SEPA Contact:	Karen Scharer
Community Plan:	Federal Way

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the September 30, 1997 public hearing are found to be correct and are incorporated herein by reference. Copies of the LUSD report will be attached hereto for submittal to the Metropolitan King County Council. The LUSD staff recommends approval of the application, subject to conditions.
3. This application is for a special use permit to construct a three-legged lattice tower with mounted antennas at an overall height of 270 feet which will operate as part of the Regional Emergency Radio System serving southwest King County and northern Pierce County. The property is a 4.5 acre site owned by King County Fire District No. 39 located at the southeast corner of South 360th Street and 32nd Avenue South. The proposed tower and equipment building are to be constructed on the southern half of the property in an area which is surrounded on three sides by relatively mature evergreen trees.

4. Under applicable provisions of KCC Chapter 21.26 governing minor communications facilities, the proposed tower normally would be required to maintain a setback of 270 feet from each property line. As proposed, the tower will not meet standard setback requirements on the east, west and south sides, where in each instance the setback will be approximately 130 feet. However, the code allows such setbacks to be reduced based on the presence of adequate screening. Because on all three sides subject to setback reduction the proposed facility will be surrounded by existing evergreen trees, the record supports a finding that adequate screening will be provided.

While the Fire District has no plans to remove any trees in the future, it is nonetheless appropriate to impose a condition requiring any future removal of trees to be reviewed for adverse visual impacts. The staff-proposed conditions have also been modified to add wetland protection provisions and require relocation of an existing antenna system within the fire station complex to the new tower.

CONCLUSIONS:

1. Reduction of required lot line setbacks for the tower is justified by the Applicant's demonstration that the facility will be adequately screened from public view.
2. As conditioned, the proposed special use will not be unreasonably incompatible with the types of uses permitted in surrounding areas nor will it impair the appropriate development or use of neighboring properties. The special use will not materially endanger the health, safety and welfare of the community and does not conflict with the policies of the Comprehensive Plan or the basic purposes of the zoning ordinance. The proposed facility will not adversely impact public facilities or traffic.

RECOMMENDATION:

APPROVE the special use permit as requested, subject to the following conditions:

General

1. Development shall be generally in accordance with File Exhibit D-6 regarding configuration of the proposed tower. The tower location shall be as shown. Clearing for the project shall be limited to the area shown on File Exhibit D-7. After construction is completed, no healthy trees shall be removed from the site without prior DDES approval based on a determination that no increase in visual impacts to nearby residences will result.
2. The applicant shall obtain all necessary building permits for construction of the transmission structure and associated facilities on the subject property. At the time of building permit issuance the applicant shall file a Notice on Title per KCC 21A.24, delineating the wetlands and their buffers located on the site.

Future Expansion

3. a. No further modifications to increase the height of the lattice structure shall be permitted under authority of this approval. This limitation does not preclude another service provider from locating on the proposed communications structure permitted under this approval, nor preclude a future request for Special or Conditional Use Permit approval to extend tower height after public review.
- b. The existing small tower on the fire station shall be removed and antennas relocated to the proposed new tower as a means of consolidation of onsite communication facilities, unless the Applicant demonstrates that technical siting objections exist which render such consolidation infeasible.

Landscaping

4. Landscaping shall be planted at the base of the fencing adjacent to the north side of the project area. Detailed landscape plans shall be submitted with the building permit which conform to Type I Landscape requirements under KCC 21A.26.
5. Placement of drought-tolerant plants shall be shown on plans for the building permit application. A watering plan for maintenance of the landscaped area is required at the time of building permit to assure that landscaping will grow and mature. The applicant has the option of either installing sprinklers or contracting for irrigation services.

Color/Marking

6. The transmission structure and antennas shall remain an unpainted steel color, unless required to be marked otherwise per FAA rules.

Noise

7. The facility shall comply with the applicable noise standards for urban residential areas stated in KCC Title 12. Should future area development result in residences being constructed closer than 300 feet to the project, then some form of noise control may be required for the HVAC units. Testing of emergency generators shall only occur during daylight hours.

Elimination of Operation

8. Should any structure within this communications facility no longer be used for communication transmissions in the future, the applicant shall obtain permits as required for removal of all facilities no longer in use. Removal of structures shall occur within one year of cessation of use.

Expiration of Permit

9. This land use approval action for a Special Use Permit shall become null and void if not exercised by obtaining required building permits within four years from the effective date of the ordinance granting conditional approval.

Wetlands

- 10 a. A 50-foot buffer from the edge of the onsite wetland shall be maintained in an undisturbed condition; and
- b. Prior to construction of the proposed facility the buffer edge (50 feet from the wetland edge) shall be marked in a highly visible manner with construction fencing. Upon completion of construction the fence may be taken down.

RECOMMENDED this 1st day of October, 1997.

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Stafford L. Smith, Deputy  
King County Hearing Examiner

TRANSMITTED this 1st day of October, 1997, to the following parties and interested persons:

Michael Aippersbach, Esq.	Alois Hunkeler
Betsy Dodds	Eiko Kayano
Ron and Kris Earles	Royd Lund
Sandy Gormby	Dianne MacDonald
Jim Hamilton	Carol McLane
Jim Harris, Assoc Plnr/City of Federal Way	Ed Stewart
Helen Heckeler	Alan Stuckey
Kevin Kearns, King County Emergency Mgmt. Div.	
Director's Office, FAA	
Engineer-in-Charge, FCC 98034	
Environmental Review, US EPA	
King County Conservation District	

Civil Division, King County PAO  
Gary Samek, King County Dept. of Transportation, Roads Division  
Seattle-King County Health Department, Environmental Health  
Paul Eichhorn, Site Engineering & Planning, BSD  
Steve Townsend, Supervisor, Land Use Inspection Section, LUSD  
Michaelene Manion, Site Plan Review Section, LUSD  
Nick Gillen, Site Development Services Section, LUSD

Wally Swofford, Env Health Division, S-KC Health Dept, Chem & Physical Hazards  
Karen Scharer, Site Plan Review Section, LUSD  
Mark Mitchell, Planner, Site Plan Review Section, LUSD  
Wally Swofford, Env Health - King County Health Dept  
Lisa Lee, Land Use Services Division

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before October 15, 1997**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before October 22, 1997**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE SEPTEMBER 30, 1997, PUBLIC HEARING ON FILE NO. L97UU002 -  
FEDERAL WAY EMERGENCY RADIO SYSTEM SPECIAL USE PERMIT APPLICATION.

Stafford L. Smith was the Hearing Examiner in this matter. Participating at the hearing were Karen Scharer and Kevin Kearns.

The following exhibits were offered and entered into the hearing record:

- Exhibit No. 1      Staff report
- Exhibit No. 2      Application received June 24, 1997
- Exhibit No. 3      Affidavits of Publication from Seattle Times and Federal Way News
- Exhibit No. 4      Notice Board Posting
- Exhibit No. 5      February 25, 1997, community meeting sign-up sheet
- Exhibit No. 6      Memorandum dated July 24, 1997, from King County Health Department to  
LUSD/Site Plan Review Section regarding noise report
- Exhibit No. 7      Memorandum dated April 15, 1997, from Michael Aippersbach to Karen Scharer,  
DDES/LUSD
- Exhibit No. 8      Memorandum dated August 1, 1997, from Construction and Facility Management  
to Karen Scharer
- Exhibit No. 9      Letter dated September 11, 1997, from Michael Aippersbach to Karen Scharer  
regarding April 28, 1997, letter
- Exhibit No. 10     Memorandum dated September 25, 1997, from Nick Gillen, Ecologist, DDES

SLS:daz  
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