



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3002280
Applicant Name: Craig Wilson for Clearwire LLC
Address of Proposal: 401 2nd Avenue South

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a minor communication utility consisting of three panel antennas, two microwave dishes and one equipment cabinet all to be located on the rooftop of an existing commercial building (Clearwire).

The following approvals are required:

Administrative Conditional Use Permit – to allow a minor communication utility to extend more than four feet above the roof.
Section 23.57.014B Seattle Municipal Code (SMC).

SEPA – Environmental Determination – (Chapter 25.05 SMC)

SEPA DETERMINATION: Exempt DNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site is located in a Pioneer Square Mixed zone with a 100 foot height limit (PSM 100') on the northwest corner of 2nd Avenue South and South King Street. There is a 16 foot wide alley along the west side of the site. The site is relatively flat and is developed with a seven story office building named the Goldsmith Building with restaurants in the ground floor commercial spaces.

Area Development

Development in the vicinity consists of a mixture of office, retail, and residential uses in the historic buildings in the Pioneer Square Historic District. QWEST Field is the nearest stadium to the site.

Description of Proposal

Clearwire LLC proposes to install a wireless minor telecommunication utility atop an existing commercial office building. The telecommunication facility will be comprised of one electronics cabinet, three broadcast (panel) antennas and three microwave (dish) antennas. All these features will be wall mounted on the rooftop mechanical penthouse structure and visually screened, per the Land Use Code. The screening will match the existing color and finish materials of the penthouse wall (i.e., beige-colored stucco plaster). The telecommunications equipment cabinet and antenna arrays will be shrouded (visually concealed) behind separate screen panels. The antenna arrays will be flush-mounted to the mechanical penthouse wall atop the building. An Ethernet cable conduit resting on the building roof will link the electronics cabinet to the antenna arrays.

Public Comment

No comment letters were received during the comment period which ended August 9, 2006.

ADMINISTRATIVE CONDITIONAL USE

Section 23.57.014B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Special Review Historic and Landmark District as an Administrative Conditional Use permit when the establishment or expansion of a minor communication utility regulated pursuant to Section 23.57.002, meets the development standards of subsection C and the requirements of this section enumerated below:

- 1. The location of the roof tops is preferred, set back toward the center of the roof as far as possible. If a roof top location is not feasible, communication utilities and accessory communication devices may be mounted on secondary building facades. Siting on primary building facades may be permitted only if the applicant shows it is impossible to site the devices on the roof or secondary façade. Determination of primary and secondary building facades will be made by the appropriate board or commission.*

The Land Use Code allows minor telecommunication utilities in the Pioneer Square Mixed zone if the equipment does not extend more than four (4) feet above the building rooftop. Facilities may be permitted to exceed that four foot limit if the criteria of an administrative conditional use permit can be satisfied. The applicant has proposed to exceed the four (4) foot height allowance for minor communication utilities on the rooftop of a structure located within a Special Review, Historic and Landmark District per the aforementioned code citation. The existing (administrative) office building currently extends to the maximum height limit of 100 feet for

commercial use buildings within the zone. The existing roof top features extend to a maximum height of 11.7 feet (mechanical penthouse) above the roof top. Parapet walls are allowed to extend up to four (4) feet above the maximum height, while other roof top features including stair penthouses are allowed to extend up to 15 feet above the maximum height. All roof top features combined are allowed to cover up to twenty-five (25) percent of the roof top.

The equipment and antenna arrays have been positioned on the roof top mechanical penthouse which is situated in the center of the structure, set back from the edge of the roof and largely invisible from the street level. In addition, all equipment will be further shielded from street view by being mounted within fiberglass shrouds.

The top of the antennas when mounted to the penthouse will not exceed the height of the existing roof top feature. The applicant chose to install the antennas in locations to obtain effective signal coverage with existing roof top features near the center of the building. Therefore, the proposal satisfies this criterion by locating the communication utility as much as possible toward the center of the roof.

2. *Communication utilities and accessory communication devices shall be installed in a manner that does not hide, damage or obscure architectural elements of the building or structure.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible in a manner that does not negatively impact architectural elements, but simulates existing roof top features. The location chosen utilizing the walls of the roof top is arguably the most architecturally neutral portion of the entire building; the penthouse is an unobtrusive rectangular “box”, approximately twelve feet in height, finished with a beige-colored stucco plaster. Care has been taken to position the antennas and supporting radio cabinet so that the features match and blend with this finish treatment.

The proposed design and use was submitted to and approved by the Pioneer Square Preservation Board under their file number PSB 61/06. The formal Certificate of Approval was granted at the Board’s meeting of April 19, 2006. The condition identified in the Certificate of Approval will be placed at the end of this decision.

1. The equipment and screen are to be painted Sherwin-Williams SW 6092 “Lightweight Beige” matching the penthouse wall finish color.

The proposed minor communication utility received approval from the Pioneer Square Preservation Board confirming that the proposed installation would not adversely affect the character of the defining features that qualify the Building and the Pioneer Square Historic District for listing in the National Register of Historic Places. DPD concurs with the above findings. Therefore, this provision is met.

3. *Visibility shall be further minimized by painting, screening, or other appropriate means, whichever is less obtrusive. Creation of false architectural features to obscure the device is discouraged.*

The small electronics cabinet which serves the antennas will be wall-mounted on the same penthouse wall and similarly screened so that only the screening will be visible from the street level as well as from any surrounding buildings. Following installation the facility will be unmanned and automated so that its operation is minimally intrusive to the building occupants as well as to any residents living in surrounding apartment. Any vehicular or pedestrian trips to or from the site in association with the facility will be infrequent and minimal. There will be no displacement of residential units in the building or the immediate neighborhood as a result of the development of this project.

The general criterion for an administrative conditional use permit is: "The facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service."

An integral part of the site selection process was to find a location that would best meet this requirement. The proponent's equipment is compact and modestly-scaled (compared to conventional cellular and PCS wireless facilities) and the combination of building height, rooftop placement, wall-mounting and screening effectively satisfies the intent of this part of the regulation.

As proposed, the minor communications utility will not constitute a visually adverse intrusion that will be substantially detrimental to the architectural character of the existing building. Where feasible the applicant has proposed to mount the communication equipment to existing structures with extended façade treatments to match existing roof top features. From most angles the communication devices will not be visible from the street due in part to the building's height. The proposal is designed to be camouflaged on the roof top with minimal impact on surrounding properties. No false architectural features are proposed for this project, and the proposed color palette will be consistent with existing roof top colors. Therefore, this proposal does comply with the criterion.

SUMMARY

The proposed project is consistent with the administrative conditional use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. The site will be unmanned and therefore will not require waste treatment, water or management of hazardous materials. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and, therefore, pose no threat to the public health. Warning signs at every point of access to the transmitting antenna shall be posted with information of the existence of radiofrequency radiation.

DECISION – ADMINISTRATIVE CONDITIONAL USE

The application to install a minor communication utility in a Special Review, Historic and Landmark District is **CONDITIONALLY APPROVED**.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 30, 2006. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part: "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to some limitations. Under such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-Term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these

impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

Construction Noise

The limitations of the Noise Ordinance (construction noise) are considered inadequate to mitigate the potential noise impacts associated with construction activities. The SEPA Policies at SMC 25.05.675B allow the Director to limit the hours of construction to mitigate adverse noise impacts. Pursuant to this policy and because of the proximity of neighboring residential uses, the applicant will be required to limit excavation, foundation, and external construction work for this project to non-holiday weekdays between 7:30 a.m. and 6:00 p.m. It is also recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit.

The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

Long-Term Impacts

Long-term or use-related impacts are also anticipated, as a result of approval of this proposal including: increased traffic in the area and increased demand for parking due to maintenance of the facility; and increased demand for public services and utilities. These impacts are minor in scope and do not warrant additional conditioning pursuant to SEPA policies.

Environmental Health

The Federal Communications Commission (FCC) has pre-empted state and local governments from regulating personal wireless service facilities on the basis of environmental effects of radio frequency emissions. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radiofrequency power density at roof and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City of Seattle, in conjunction with Seattle King County Department of Public Health, has determined that Personal Communication Systems (PCS) operate at frequencies far below the Maximum Permissible Exposure standards established by the Federal Communications Commission (FCC) and therefore, does not warrant any conditioning to mitigate for adverse impacts.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

ADMINISTRATIVE CONDITIONAL USE AND SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abut the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.
2. The equipment and screen shall be painted Sherwin-Williams SW 6092 “Lightweight Beige” matching the penthouse wall finish color.
3. Add the conditions of the Certificate of Approval to the plans.

Signature: _____ (signature on file) Date: October 2, 2006
Malli Anderson, Land Use Planner
Department of Planning and Development
Land Use Services