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: 3003799

Applicant Name: Catherine Funtanilla for Cingular Wireless

Address of Proposal: 205 19th Avenue East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow expansion of an existing minor communication utility (Cingular Wireless), that consists of replacing three antennas and the addition of three antennas for a total of six antennas mounted on the roof top of an existing apartment building. The project includes locating accessory equipment cabinets at grade in a garage structure.

The following approvals are required:

Administrative Conditional Use Review - To allow a minor communication utility to exceed the height in a Multifamily Lowrise Three zone. Section 23.57.011.B, Seattle Municipal Code

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code**

SEPA DETERMINATION: [ ] EXEMPT [X] DNS [ ] EIS

[X] DNS with conditions

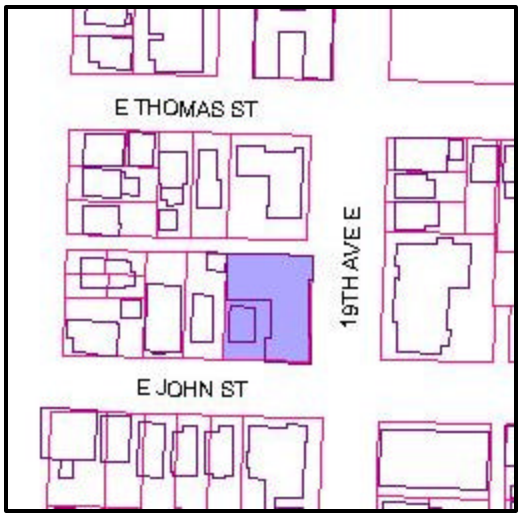
[ ] DNS involving non-exempt grading or demolition involving another agency with jurisdiction

**Early Notice DNS published March 2, 2006

BACKGROUND DATA

Site Location and Description

Located on the eastside of Capitol Hill, the subject site is a corner lot located at the northwest corner of the intersection of East John Street to the south and 19th Avenue East on the east side, in the Capitol Hill neighborhood. The site abuts an improved alley to the north. The site is also located within the Central Residential Urban Village. The existing lot encompasses approximately 10,341 square feet of land, located in a Multifamily Lowrise Three (L-3) zone with a minimum lot area requirement of one unit per 800 square feet of lot area. The site is nearly square in shape (112 feet x 91.3 feet) on a lot that slopes moderately downward from west to east, approximately 14 feet over a distance of 91 feet. The site is currently developed with a residential (apartment) use, owned and operated by Littlefield Apartment, LLC. Two residential



structures are located at the development site. A one-story multifamily (duplex) structure located adjacent to East John Street was constructed in 1902 as a single family residential use. The remaining area is occupied by a apartment building with attached garage that frontages along East John to the south, 19th Avenue to the east, and an improved alley along the north property line. The proposal will be sited on the L-shaped brick apartment building with attached garage. The four (4)-story apartment building was constructed in 1946, under a previous code that allowed structure height to extend above the current zone height limit, and is now nonconforming to current land use L-3 structure height and other development standards, if not allowed by code. As such, new development activity generally shall not increase the extent of the existing nonconformity.

The site is fully developed with two existing buildings occupying a significant portion of the development site, with landscaping around the site's perimeter. Access to parking is obtained off an improved alley into the attached garage structure. The proponent (Cingular Wireless) of this action will expand their existing minor communications utility use already located at the development site. The existing panel antennas are shrouded within a faux brick chimney on the roof top of the apartment structure with the accessory equipment cabinets located in the garage. The rectangular L-shaped apartment building is one of a limited number of buildings in the area with significant presence in this part of the neighborhood. Across the alley to the north the adjacent structures are of similar scale and design, and are in keeping with the Capitol Hill multifamily residential vernacular. Primary pedestrian access to the apartment building is along the east façade. Both street frontages are fully improved with concrete sidewalks, curbs, and gutters.

Area Development

The surrounding residential structures on the block front are for the most part modest similarly scaled on a semi-active residential street, (19th Avenue East). The mix of multifamily and single family residential uses works well in this quiet neighborhood. Zoning in the vicinity is a mix of Neighborhood Commercial, Multifamily Lowrise and Single family zoning. Surrounding the moderately sized L-3 zone to the west is Group Health Cooperative located within a Major Institutional Overlay zone with a height limit of 50 and 105 feet (MIO–50 & MIO–105, L-3). To the north of the L-3 zone is a densely populated Single family 5000 (SF5000) zone that is home to Seattle Public School's Meany Middle School and Miller Community Center and playfield. The community center with its accessory playfields provides recreational opportunities for the extended neighborhood. To the east and south of the L-3 zoned area a combination of Multifamily Lowrise Four (L-4) and Neighborhood Commercial Two and Three (NC 2 & NC 3) is situated. The NC zones are clustered around a primary arterial, East Madison Street, connecting downtown to the western banks of Lake Washington. This stretch of East Madison is an area in transition with a number of development projects currently underway.

Proposal Description

A Master Use Permit Application proposes to expand the use of a minor communication utility (Cingular Wireless) that exceeds the height limit of the underlying zone, on the roof top of an existing apartment building. The project includes installation of three new roof top antennas and the replacement of three existing antennas for a total of six antennas. Four antennas will be mounted to the sides of the elevator penthouse near the center of the building, encased within a faux shroud compatible with the existing building. Two antennas are proposed to be attached to two free standing tripods (one antenna per tripod) within a shroud assembly resembling a brick chimney, located on the south half of the roof top. The accessory equipment cabinet will be located at grade in a secured fenced enclosure within a garage.

The highest portion of the proposed minor communication utility and screening will extend upwards no further than the existing antenna shroud, 56 feet above existing average elevation grade. The height limit for the L3 zone is 30 feet above grade, and may extend higher under strict application of Code exceptions. Approval through an Administrative Conditional Use Permit is required for locating a minor communication utility in a Multifamily Lowrise zone and for constructing minor communication utilities that exceed the height limit of the zone.

Public Comment

Date of Notice of Application:	March 2, 2006
Date End of Comment Period:	March 15, 2006
# Letters	3

Issues: Two of the three letters received by DPD, during the public comment period addressed public health risks associated with the installation of antennas. The Federal Government has taken jurisdiction to evaluate public heath concerns associated with these utilities, which supersedes our authority to evaluate health related impacts (for additional comments see SEPA section). Other comments included lessening visual impacts of the proposed rooftop antennas behind some-kind of screening device that is more in keeping with the color and texture of existing brick materials. One letter suggested the roof top antennas would negatively impact views to the Cascades and Lake Washington currently enjoyed by neighboring properties.

ANALYSIS AND CRITERIA - ADMINISTRATIVE CONDITIONAL USE

The establishment or expansion of a minor communication utility is regulated pursuant to Section 23.57.002. Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multifamily Lowrise zone when establishing or expanding communication utility and accessory communication devices as modified by subsection 23.57.011.C with the approval of an administrative conditional use permit. Approval shall be regulated pursuant to the requirements of this section enumerated below:

1. *The project shall not be substantially detrimental to the residential character of nearby residentially zoned areas, and the facility and the location proposed shall be the least intrusive facility at the least intrusive location consistent with effectively providing service. In considering detrimental impacts and the degree of intrusiveness, the impacts*

considered shall include but not be limited to visual, noise, compatibility with uses allowed in the zone, traffic, and the displacement of residential dwelling units.

The applicant's plans depict a thoughtful integration of the telecommunication facility into the architectural design on the roof top of the existing building. By proposing a screening technique that employs a shroud surface that is compatible to the existing architectural treatment throughout the building's exterior and roof top features, the applicant has succeeded in designing a cohesive relationship to the existing architectural integrity of the existing building. Architecturally, the screening technique effectively harmonizes with the building's existing roof top features. Four antennas are proposed to be arrayed on three sides (west, north, and east) of an existing elevator penthouse, and two antennas will be mounted to one free standing tripod each, all on the roof top no closer than 12 feet to the building's edges and 21 feet to the property line. The antennas will be shrouded from view and will extend no higher than the height of the elevator penthouse, approximately 14 feet above roof elevation and approximately 56 feet above grade. The accessory equipment cabinet will be located at grade within a garage structure.

The proposed shroud assemblies will be in keeping with the architectural character of the existing building that currently hosts three antennas encased within shrouds from the same provider. The existing shrouds were designed to mimic the look of brick façade treatments did not achieve the attended goal of architectural integration. As viewed from abutting properties, the color and texture of the existing shrouds are substantially different from the existing façade. The screening shrouds will be required to more closely match the materials found on the host building; on face appearance the shrouds will look and appear to function like a penthouse and chimney. The views from neighboring residential and commercial structures would not be substantially altered by the presence of the facility. The applicant has provided photographic evidence suggesting that the visual intrusion would be minor.

The proposed minor communication utility is not likely to result in significant change to the pedestrian or residential character in the area. Neighbors and tenants of the host building will not likely be impacted by the utility, in terms of its land use, streetscape, and visual intrusion. Once construction is completed, cell phone coverage in the area will be improved which will likely be beneficial to many residents and visitors to the neighborhood.

The host residential development site occupies the least intrusive facility in a residential area that includes Single Family 5000 (SF 5000), Lowrise Four, Three, and Two (L4, L3, & L2) zones. The applicant has co-located the facility on an existing building in the denser Multifamily L3 zone. With the addition of the proposed antennas the applicant has demonstrated build-out of service coverage area in a lease intrusive location.

Traffic will not be affected by the presence of the minor communication utility. It is anticipated that one visit per month will be required to service equipment. The antennas will not emit noise, and any noise associated with the equipment cabinet will be marginalized and shielded by its location. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

2. The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.

According to the plans submitted, the proposed antennas will be entirely screened from view and will be inconspicuously located, within the parameters of the SMC, while remaining functionally

effective. The four (4) antennas mounted to the side of the elevator penthouse and two (2) free standing tripods supporting one antenna each mounted on the roof top, will provide screening for all panel antennas, will be located no closer to the property lines as follows; approximately 48 feet from the north, 56 feet from the west, 24 feet from the south, and 20 feet from the east property lines. Therefore, the proposal complies with this criterion.

23.57.016 Visual Impacts and Design Standards:

A. Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.

The applicant's plans depict integration of a screening facility into the architectural design of the existing building by proposing screening techniques picking up on the surface façade treatments of the existing structure that generally match the color and pattern of the host building. The screening device will be sympathetic in materials and design to existing roof top features designed for similarly buildings. Therefore, the proposal complies with this criterion (See applicant's declarations and submitted plans).

B. Not Applicable.

C. If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures shall be no taller than such structures.

The applicant's plans depict screening that extends to the top of the proposed facilities. The antennas will be mounted to the side of the existing penthouse not exceeding the height of the roof top feature, with the two free standing tripod structures and shrouds extending to a height one foot below the elevator penthouse. The screening facility will integrate into the architectural design of the existing building via screening shapes similar to that of penthouse exterior attachments and by using screening colors and patterns that generally blend with the texture of the host building.

D. Not Applicable.

E. Not Applicable.

F. New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.

The existing antenna shrouds were designed to blend in with the look of the building facade, but did not achieve a level of integration anticipated, as evidenced during site visits and through photo simulations provided by the applicant. The new proposal depicts similarly designed shrouds to maintain a level of consistency to integrate the screening

facility into the architectural design of the existing building by strengthening the connection between shapes, materials, and colors. The shrouds will generally match the color, pattern, and texture of the host building. The screening of proposed antennas will be sympathetic in material and design to that of the similarly designed shrouds on the host building expect that all shrouds will be required to match the weathered exterior brick façade of the existing building, and shall extend down to the rooftop. Therefore, the proposal complies with this criterion.

G. Not Applicable.

H. Not Applicable.

I. Not Applicable.

J. Not Applicable.

K. Not Applicable.

3. *Within a Major Institution Overlay District, a Major Institution may locate a minor communication utility or an accessory communication device, either of which may be larger than permitted by the underlying zone, when:*

    a.) the antenna is at least one hundred feet (100') from a MIO boundary, and

    b.) the antenna is substantially screened from the surrounding neighborhood's view.

The proposed site is not located within a Major Institution Overlay District. Therefore, this requirement does not apply to the subject proposal.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The applicant's RF engineer has provided evidence (Letter from David J. Pinion, (RF) Engineer, and dated April 26, 2006) that the proposed antenna height, less than 56 feet above grade level, is the minimum height necessary to ensure the effective functioning of the utility in the most inconspicuous manner possible. Therefore, the proposal complies with this criterion.

The proposed antennas will be located on the rooftop of the existing building. The proposed minor communication facility will extend approximately 14 feet above the roof top and would be taller than the base height limit for Multifamily Lowrise Three zones. However, the additional height may be granted through an administrative conditional use permit.

Due to the operational characteristics of the proposed facility, a clear line of site from the antennas in the system throughout the intended coverage area is necessary to ensure the quality of the transmission of the wireless broadband system. The strict application of the height limit would preclude the applicant from providing wireless services for the intended coverage area, which extends north towards East Mercer Street, west to 18th Avenue East, south to East Columbia Street, and east towards 24th Avenue East. The site was chosen because of its elevation, height of the existing building, and location which is uniquely suited to serve an expansive area. No commercial properties were identified with sufficient elevation height to provide the coverage needed to meet the service objectives in identified area. No other locations

in the area were sought out due to the existing host site. The applicant chose to expand their existing utility on the host building that is currently providing minor communication service for the area. The additional height above the underlying zone height development standard is the minimum required to obtain sufficient coverage. The additional increase in bulk, view blockage and shadow impacts are anticipated to minimally alter views from the extra 14 feet extension of the proposed antennas mounted to the side of the existing elevator penthouse and on two free standing tripods. Given the development criterion, the height limit extension is of minimal impact. Thus, this criterion is satisfied.

5. If the proposed minor communication utility is proposed to be a new freestanding transmission tower, the applicant shall demonstrate that it is not technically feasible for the proposed facility to be on another existing transmission tower or on an existing building in a manner that meets the applicable development standards. The location of a facility on a building on an alternative site or sites, including construction of a network that consists of a greater number of smaller less obtrusive utilities, shall be considered.

The proposed minor communication utility is not proposed for a new freestanding transmission tower. Therefore, this provision does not apply.

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 treatments, 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.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a Multifamily Lowrise zone, which is above the height limit of the underlying zone, is **CONDITIONALLY APPROVED**.

SEPA ANALYSIS

Environmental review resulting in a Threshold Determination is required pursuant to the State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by Peter James dated December 13, 2005. The information in the checklist, public comment, and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) 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 225.05.665 D1-7) mitigation can be considered.

Short-Term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased 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 25.05.675 B 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 7:00 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 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 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).

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 requirement 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 not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

The owner(s) and/or responsible party(s) shall:

1. Revise plans to document exterior color palette for proposed shroud screening of the antennas, cables, and related equipment to blend with the color of the building. This shall be to the satisfaction of the Land Use Planner.

2. Revise plans to extend screening shrouds down to rooftop. This shall be to the satisfaction of the Land Use Planner.

Land Use Code Requirement (Non - Appealable) Prior to Issuance of Master Use Permit

3. The owner(s) and/or responsible party(s) shall provide access and signage in accord with Section 23.57.012C2 which restrict access to minor communications utilities to authorized personnel. This shall be to the satisfaction of the Land Use Planner.

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 abuts 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.

4. 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 7:00 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.

Signature: (signature on file) Date: September 21, 2006
Bradley Wilburn, Land Use Planner
Department of Planning and Development

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