



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: 3004222
Applicant Name: Cathy Funtanilla for Cingular Wireless
Address of Proposal: 3434 Beacon Avenue South

SUMMARY OF PROPOSED ACTION

Land Use Application to expand use for installation of a minor communication utility (Cingular Wireless), consisting of the replacement of three panel antennas and addition of three for a total of six antennas. Two free standing tripod antenna poles (each supporting three panel antennas) will be encased within a shroud assembly and mounted on the roof top of an existing apartment building. The project also includes locating accessory equipment cabinets within an enclosure in the basement.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility to exceed the height in a Multifamily Lowrise Two 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

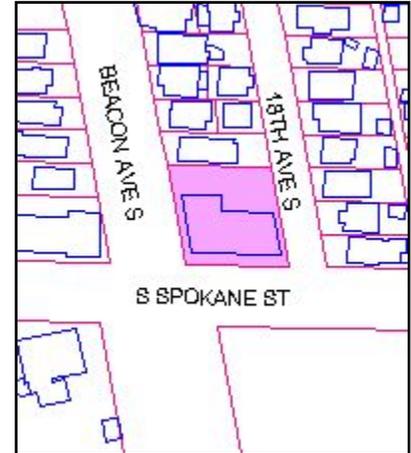
[] DNS involving non-exempt grading or demolition involving another agency with jurisdiction.

*Early Notice DNS published March 30, 2006.

BACKGROUND DATA

Site Location and Description

The subject property is located just north of Jefferson Park Golf Course, across South Spokane Street. The site is an end lot with frontages along three streets; South Spokane Street to the south, Beacon Avenue South to the west, and 18th Avenue South to the east, in the Beacon Hill neighborhood. The development site occupies a total land area of approximately 12,590 square feet (110.34 feet X 114.10 feet), and is located in a Multifamily Lowrise Two (L2) zone, with a minimum lot area requirement of one unit per 1,200 square feet. The site is currently developed with a residential (apartment) use. The three-story building was constructed in 1976, and is nonconforming to current land use L-2 height development standards, if not allowed by code. And as such, any new development activity shall not increase the extent of the existing nonconformity.



The site is fully developed with an existing building occupying a significant portion of the development site, with landscaping and surface parking filling out the remaining area. The proponent of the minor communications utility expansion (Cingular) is currently located at the development site. The irregular shaped building is one of a limited number of buildings in the area which has a significant presence in this part of the neighborhood. The structures to the north and east are smaller in scale and design. Catty-corner, across the intersection of South Spokane Street and Beacon Avenue South from the development site is a City of Seattle Fire Station. Primary pedestrian access to the apartment building is along the south façade. Vehicle access to the development site is obtained thru a one-way driveway accessed off Beacon Avenue South that exists onto 18th Avenue South near the north property line. Surface parking is located on either side of this driveway area. The subject lot is relatively flat with no other distinguishable characteristics. Both street frontages are fully improved with concrete sidewalks, curbs, and gutters.

The subject site is located within a narrow L-2 zoning swath, within the 34 hundred block of Beacon Avenue South. There is a wide assortment of residential uses, from single family to multifamily apartment complexes in this area. To the north, abutting this zoned area along Beacon Avenue South, the zone changes to Neighborhood Commercial One with a height 40 (NC1-40). Beacon Avenue South, is a primary arterial oriented along the north/south axis. Beacon Avenue South connects the south end of Seattle to the International District with connecting thoroughfares to Downtown, and Capitol Hill neighborhood. This area has sustained robust pedestrian and vehicle activity throughout the day and evening, owing in part to its connection between recreational facilities to the south and commercial activities to the north. Outside this Multifamily zoning area to the west, east, and south is a less dense Single Family 5,000 (SF 5000) residential zone. This area contains a mix of modest and one and two-story single family structures. This single family area is expansive and truly reflects urban residential living – other development in this area includes; Puget Sound Health Care System’s Veterans

Administration Hospital, a Community Center, Jackson Park driving range and golf course, and City reservoir. Asa Mercer Junior High School (Seattle Public Schools) is located to the south fronting South Columbia Way and 16th Avenue South right-of-way.

Proposal Description

A Master Use Permit Application proposes to expand the use of a minor communication utility (Cingular) on the roof of an existing apartment building. The proposed expansion will consist of replacing three (3) panel antennas and the addition of three (3), for a total of six (6) antennas located on the roof of an existing apartment building. Three new antennas will be located within a simulated brick chimney shroud assembly near the west edge extending approximately 15 feet above the roof top; a second similarly designed shroud assembly will contain the three replacement antennas, extending approximately 15 feet above roof top, and will be located near the roof's east edge. Additionally, the applicant has proposed to add five (5) equipment cabinets to the existing one cabinet, for a total of six (6), located in the basement within an existing screened enclosure.

The highest portion of the proposed minor communication utility and screening is proposed to be 42.3 feet above existing average elevation grade. The height limit for the L2 zone is 25 feet above grade, and may extend higher under strict application of land Use 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 underlying zone.

Public Comment

Date of Notice of Application: March 30, 2006
Date End of Comment Period: April 12, 2006

Letters 0

Issues: The SEPA comment period for this proposal ended on April 12, 2006. The Department received no comment letters during the public comment period.

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 faux chimney surface that is compatible to the existing architectural treatment throughout the building's exterior, the applicant has succeeded in designing a cohesive relationship to the existing architectural integrity of the existing building. Architecturally, this screening technique effectively harmonizes with the building's existing façade treatment. A total of six antennas are proposed to be arrayed in two locations on the roof top (the east and west half), three antennas will be mounted to one free standing tripod each, no closer than 14 feet to the building's edges and 30 feet to the property line. All antennas are proposed to be encased within two antenna shrouds resembling a brick chimney that will extend approximately 15 feet above roof elevation and approximately 42 feet above grade. The accessory equipment cabinet will be located at below grade within an enclosed area within the basement.

The proposed shroud assemblies will be in keeping with the architectural character of the existing building that currently hosts three antennas encased within a brick chimney shroud from the same provider. The existing shroud was designed to mimic the look of the brick façade treatments but did not achieve the intended goal of architectural integration. The color and texture of the existing shroud are substantially different from the existing façade, and will be conditioned to more closely match the weathered look of brick facade. As viewed from abutting properties through the photo simulations, the proposed free standing screening shrouds (faux brick chimney) housing the panel antennas, on face appearance look and appear to function like a chimney. The views from neighboring residential and nonresidential 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 it is constructed 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 Two (L2), and Neighborhood Commercial One with a height limit of Forty feet (NC1-40) zones. The applicant seeks to expand the operational capability on an existing building were they already established in the moderately dense Multifamily L2 zone. With the addition of the proposed antennas the applicant has demonstrated build-out of service coverage area in a least intrusive location.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and any noise associated with the equipment cabinet will be marginalized and shielded by its basement 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 inconspicuous, within the parameters of the SMC, while remaining functionally effective. The proposed two chimney shrouds mounted to the roof top, will provide screening for three panel antennas each, will be located as follows; the proposed faux chimney located on the west half of the roof top will be approximately sixty-eight (68) feet from the north, thirty (30) feet from the west, and thirty-nine (39) feet from the south property lines; the existing east chimney shroud will remain in the same location, approximately sixty-nine (69) feet from the north, Thirty (30) feet from the east, and thirty-eight (38) feet from the south 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 a thoughtful integration of a screening device into the architectural design of the existing building by proposing screening techniques picking up on the brick 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 that of a typical chimneys designed for residential 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 plans illustrate locating the antennas outside the center of the roof to maximize coverage in the lower density residential zone. The shroud assembly shielding the antennas will extend approximately 15 feet above the roof. Integration of the screening facility into the architectural design of the existing building is proposed via screen shapes similar to that of brick chimneys 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 shroud was designed to mimic the look of a brick chimney, which did not achieve the level of integration anticipated, as evidenced during site visits and photo simulations provided by the applicant. The color and texture of the shroud assembly did not match the weathered look and texture of the brick and stucco building. The new proposal depicts a similar integration of the screening facility into the architectural design of the existing building by strengthening the connection between existing and new shroud assembly. The faux brick chimney shrouds will be conditioned to match the color, pattern, and texture of the host building. The screening of antennas will be sympathetic in material, color, and design of the host building, which are similarly designed to what would be found on residential buildings. 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 February 28, 2006) that the proposed antenna height, 15 feet above the top of roof, 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 extending approximately 15 feet above the roof top would be taller than the base height limit for Multifamily Lowrise Two zones because the top of roof is over the height limit. 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 Cingular system. The strict application of the height limit would preclude the applicant from providing wireless services for the intended coverage area, which extends west towards 13th Avenue South, south to South Snoqualmie Street, and east towards Cheasty Boulevard South. The site was chosen because of its elevation, height of the existing building, and location which is uniquely suited to serve an expansive residential area. No commercial properties were identified with sufficient elevation height to provide the coverage needed to meet the service objectives in the L2 zone. One block to the north the search ring which included NC1-40 zoned properties that could not reach the attended coverage area without extending the antennas well above the zoned height limit. Other sites were considered, however, these sites were deemed inadequate or inaccessible to meet optimum service level parameters. The applicant chose to co-locate on the host building that is providing minor communication service for another provider. 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 not anticipated from the extra 15 feet extension of the proposed antennas within the two chimney shrouds.

According to the applicant, the literal interpretation and strict application of the Land Use Code would be that Cingular could not meet its federal mandate of its FCC license to provide high speed wireless internet access throughout the Seattle metropolitan area. This proposal site at this elevation is a vital link in the planned network for the Seattle Metropolitan area. Given these alternatives, the height limit extension is a 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 Cathy Funtanilla dated March 6, 2006. 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 7:30 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 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.

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

2. 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.

