



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: 3004332
Applicant Name: Craig Wilson for Clearwire, LLC
Address of Proposal: 1210 15th Avenue E.

SUMMARY OF PROPOSED ACTION

Land Use Application to install a minor communication utility (Clearwire, LLC) consisting of three panel antennas and two microwave dishes on the roof of an existing apartment building. Equipment cabinet is to be mounted on the north wall of the building above grade level.

The following approvals are required:

Administrative Conditional Use Review - To allow a minor communication utility in a Multifamily Lowrise-Three family zone. Section 23.57.011.C, Seattle Municipal Code.

SEPA - Environmental Determination - *Chapter 25.05*, Seattle Municipal Code (“SMC”).

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

BACKGROUND DATA

Site Description

The subject property is located on the east side of the block of 15th Avenue E. between E. Galer St. and E. Highland Dr. in the Volunteer Park neighborhood of West Seattle. The subject site is rectangular in shape and encompasses a land area of approximately 37,120 square feet. The site is zoned Multifamily Lowrise Three (L-3), with a minimum density requirement of one unit per 800 square feet. The site is currently developed with a three-story, fifty-unit, brick apartment

building (Parkridge Apartments) that was built in 1984. The building is nonconforming to current land use multifamily development standards. Any new development activity shall not increase the extent of the existing nonconformity. The site is fully developed with the existing building which occupies a significant portion of the development site. There is a basement parking garage with fifty existing parking spaces. The property's street frontage along 15th Avenue East is fully improved with concrete sidewalks, curbs, and gutters. There is also a 15-foot wide concrete alley adjacent to the east property line.

Area of Development

The subject site is located in a Lowrise-Three zone that is surrounded by an expansive residential area, with the properties to the northeast, east, west and south zoned Single-Family. Directly to the north is a block that is zoned Lowrise-Three. Development in the area includes Lakeview Cemetery, Volunteer Park, a limited number of apartment buildings, and modest one and two-story single family residences.

Proposal Description

A Land Use Application to install a minor communication utility (Clearwire, LLC) consisting of three panel antennae and two microwave dishes on the roof of an existing apartment building. The radio equipment cabinet will be located between the north wall of the building at grade level and the side lot line.

Proposed Clearwire antennas will be concealed within a fiberglass shroud assembly and mounted to existing penthouse. There will be a second fiberglass shroud assembly mounted to the rooftop of the building. The shrouds will match the color and finish of the building exterior and are designed to visually screen the equipment. The radio equipment cabinet will be located between the north wall of the building and the side lot line at existing grade. The proposal involves no ground disturbance. A single cable conduit attached to the building wall will link the electronics cabinet to the roof mounted antenna arrays.

The highest portion of the proposed minor communication utility and screening is proposed to be 54 feet above existing grade. The height limit for the L3 zone is 30 feet above grade and may extend to 35 feet with a pitched roof that has a minimum slope of 4:12. Approval through an Administrative Conditional Use Permit is required for locating a minor communication utility in a residential zone and for constructing minor communication utilities that exceed the height limit of the zone.

Public Comment

One comment letter was received during the comment period which ended June 7th, 2006.

Issues: One letter addressed concern over previous installation of minor communication utilities and how their construction impacted the integrity of the rooftop of the building.

ADMINISTRATIVE CONDITIONAL USE

Seattle Municipal Code (SMC) 23.57.011B provides that a minor communication utility, as regulated pursuant to SMC 23.57.002, may be permitted in a Lowrise zone as an administrative conditional use when it meets the development standards of SMC 23.57.011C and the following criteria, as applicable.

- 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.*

According to the plans, the antennas will conform to codified development standards, visual impacts and design standards of SMC 23.57.011 and 23.57.016. The antennas will be fully screened from any viewed direction for their full height by the existing screening which uses materials consistent with the current exterior of the building. The screens are designed to mimic the look of the exterior of the brick building, thus providing a facility that is the least intrusive design for this residentially zoned neighborhood.

Some views from neighboring residential structures have been altered by the presence of the existing facility. The applicant has provided photographic evidence suggesting that the visual intrusions are minor.

The proposed minor communication utility is not likely to be substantially detrimental to the residential character of the residentially zoned area, and the location of the panel antennas are the least visually intrusive locations consistent with effectively providing service and minimizing impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely know the facility exists, in terms of its land use, once the antennas are replaced, and cell phone coverage in the area will be improved, which will be beneficial to users in the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, the walls of the laundry room will shield any noise associated with the equipment, and no residential dwelling units would be displaced.

- 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 height of the antennas will be fully screened from view and will be as inconspicuous as possible, within the parameters of the SMC, while remaining functionally effective. The equipment cabinet at the north side of the building will be screened by a 6-foot high cedar board fence. Therefore, the proposal complies with this criterion.

- 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:*

4. *The antenna is at least one hundred feet (100') from a MIO boundary, and*
 - a. *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 criterion does not apply to the subject proposal.

5. *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 proposed height of the minor communication utility is eighteen feet (18' 3") above the rooftop, with a total height of fifty-four feet (54') above existing grade. Documentation within the Master Use Permit file, provided by the applicant, demonstrates the requested height is the minimum necessary for the effective functioning of the minor communication utility; therefore, the proposal complies with this criterion.

6. *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 will not be a new freestanding transmission tower. Therefore, this criterion does not apply to the subject proposal.

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. Once installed, periodic routine maintenance of the facility's equipment will occur. This will occur during regular business hours. No other traffic would be associated with the project.

DECISION – ADMINISTRATIVE CONDITIONAL USE

The application is **CONDITIONALLY APPROVED**.

ANALYSIS – SEPA

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 Gary Abrahams dated May 1st, 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 7:00 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).

