



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning & Development
D. M. Sugimura, Director

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

Application Number: 3004373
Applicant Name: Norris Bacho for Clearwire LLC
Address of Proposal: 5401 26th Avenue NE

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a new minor communication utility (Clearwire LLC) on the rooftop of an existing residential building consisting of four panel antennas and two microwave dishes. Equipment cabinet will be located in basement garage.

The following approval is required:

SEPA - Environmental Determination (Chapter 25.05, Seattle Municipal Code).

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

*Early Notice DNS published May 17, 2006.

BACKGROUND INFORMATION

Site and Vicinity Description

The approximately 15,434 square feet proposal site occupies the northern half block of NE 54th Street between 25th and 26th Avenue NE. The site is zoned Neighborhood Commercial 2 with a 40 feet height limit (NC2-40) and it's currently developed with four story mixed used commercial and residential building, housing offices for Youth care, transitional



housing and apartments for low income families, and a basement garage. The NC2-40 zone abuts the Single Family 5000 (SF-5000) zone to the south and southeast, and NC2-30 predominantly to the west. Development in the vicinity is predominantly single family residential with commercial uses extending principally along both sides of adjacent 25th Avenue NE from the University Village on the south to just north of nearby NE 55th Street.

Proposal Description

The proposed project consists of the installation of a new minor communication facility for Clearwire- a wireless broadband internet service provider. The facility will consist of four small 35.8" x 5.5" x 4.7" panel antennas and two small 2' diameter microwave antennas. The panel antennas will be attached to the walls of the stairwell penthouse and will be completely screened from view. The penthouse is triangularly shaped and will be "squared" to accommodate the screening of the antennas. The antenna screen and the "squared" to the top of the penthouse will project 15 feet above the rooftop of the existing building. The associated electronic equipment cabinets will be located in a basement garage within the existing building. The antennas, cabling tray and the antenna screen will be painted and constructed to match the appearance of the building.

Public Comments

Notice of the proposed project was published on April 20, 2006 and the public comment period ended May 17, 2006. One comment letter was received. The respondent raised concerns about views of the communication utility on the rooftop.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist dated March 1, 2006. The information in the checklist, applicant's statement of Federal Communication Commission Compliance, supplemental information and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

Many environmental concerns have been addressed in the City's codes and regulations. The SEPA Overview Policy (SMC 25.05.665) discusses the relationship between the City's code/policies and environmental review. The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulation are adequate to achieve sufficient mitigation*" subject to some limitations. It may be appropriate to deny or mitigate a project based on adverse environmental impacts in certain circumstances as discussed in SMC 25.05.665 D1-7. In consideration of these policies, a more detailed discussion of some of the potential impacts is appropriate.

Short - term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction

vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; increased noise; consumption of renewable and non-renewable resources. These impacts are expected to be very minor in scope and of very short duration considering the installation process. No conditioning pursuant to SEPA is warranted.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:00 a.m. and 6:00 p.m.

Long - term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal, namely increases in demand for energy and increased generation of electromagnetic radiation emission. These long-term impacts are not considered significant or of sufficient adversity to warrant mitigation. However, due to the widespread public concerns expressed about electromagnetic radiation, this impact is further discussed below.

The Federal Communications Commission (FCC) has been given exclusive jurisdiction to regulate wireless facilities based on the effects of electromagnetic radiation emissions. The FCC, the City and County have adopted standards addressing maximum permissible exposure (MPE) limits for these facilities to ensure the health and safety of the general public. The Seattle-King County Department of Public Health has reviewed hundreds of these sites and found that the exposures fall well below all the maximum permissible exposure (MPE) limits. The Department of Public Health does not believe these utilities to be a threat to public health.

The City is not aware of interference complaints from the operation of other installations from persons operating electronic equipment, including sensitive medical devices (e.g. - pacemakers). The Land Use Code (SMC 23.57.012C2) requires that warning signs be posted at every point of access to the antennas noting the presence of electromagnetic radiation. In the event that any interference was to result from this proposal in nearby homes and businesses or in clinical medical applications, the FCC has authority to require the facility to cease operation until the issue is resolved.

The information discussed above, review of literature regarding these facilities, and the experience of the Departments' of Planning and Development and Public Health with the review of similar projects form the basis for this analysis and decision. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted.

Other long term impacts such as height, bulk and scale, traffic, and air quality are minor and adequately mitigated by the City's existing codes and ordinances. Provided that the proposal is constructed according to approved plans, no further mitigation pursuant to SEPA is warranted.

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.

- 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).

CONDITIONS - SEPA

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.

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 7:00 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
Christopher Ndifon, Land Use Planner