



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: 3004488
Applicant Name: Andy King
Address of Proposal: 351 NE 133rd St

SUMMARY OF PROPOSED ACTION

Land Use Application to install a minor communication utility consisting of twelve panel antennas in three sectors. The equipment cabinets are to be located in a fenced area which will be expanded to accommodate the proposal. The proposed antennas will be mounted to an existing monopole originally permitted under MUP #9808160 and Permit #704802.

The following approval is required:

- **Administrative Conditional Use**
Seattle Municipal Code (SMC) 23.57.010-B2
- **SEPA - Environmental Determination**
Seattle Municipal Code (SMC) 25.05.

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

BACKGROUND INFORMATION

Site and Vicinity Description

The proposal site is located off of 5th Ave NE just north of NE 130th St. NE 130th St is an overpass of Interstate 5. The property is owned by Washington Department of Transportation and is used as a Park & Ride lot for King County Metro. The site is located in a Single Family 7200 zone. Existing development on the site consists of paved parking area for approximately 46 vehicles and an existing 100' monopole with three existing wireless providers currently existing on the pole (Clearwire, T mobile, Cingular).

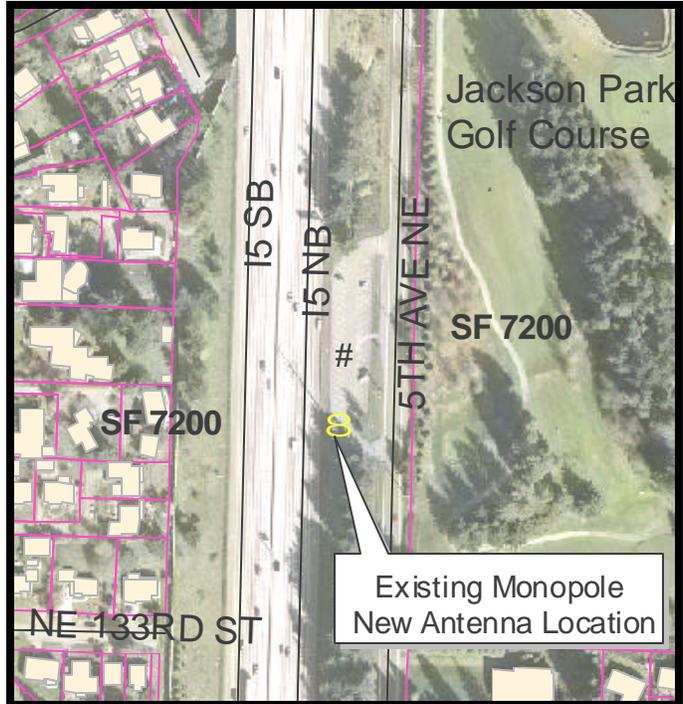
Surrounding Uses and Zoning

South: No structures, SF 7200 zone (Washington Dept. of Transportation land);

North: No structures, SF 7200 zone (Washington Dept. of Transportation land);

East: No structures, SF 7200 zone, 5th Ave NE and Jackson Park Golf Course (Parks Department Land).

West: Interstate 5 (Washington Dept. of Transportation land), SF 7200 zone and Single Family Structures west of Interstate 5.



Proposal Description

The proposed project consists of the installation of a minor communication facility for Verizon Wireless. The proposed facility will consist of a twelve antennas with four antennas per sector. All proposed cabling will be routed from the ground level 240 sq. ft lease space. Power will be connected by an overhead power line from an existing SCL power pole located on the west side of 5th Ave NE that travels under the Park and Ride asphalt to the cabinets.

Public Comments

The original public comment period for this project ended June 14th, 2006. DPD received no written comment letters regarding this proposal. The application required re-notice; during review it was determined that the proposal was a “physical expansion” and as a result an Administrative Conditional Use was required to be added as a discretionary Land Use decision. The revised comment period ended January 10th 2007. DPD, again, received no written comment letters regarding this proposal.

ADMINISTRATIVE CONDITIONAL USE ANALYSIS

SMC 23.44.018 General Provisions.

A. Only those conditional uses identified in this subchapter may be authorized as conditional uses in single-family zones. The Master Use Permit Process set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, shall be used to authorize conditional uses.

B. Unless otherwise specified in this subchapter, conditional uses shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.016.

C. A conditional use may be approved, conditioned or denied based on a determination of whether the proposed use meets the criteria for establishing a specific conditional use and

whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

D. In authorizing a conditional use, the Director or Council may mitigate adverse negative impacts by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.

E. Any use which was previously authorized by a conditional use permit but which has been discontinued shall not be reestablished or recommenced except pursuant to a new conditional use permit, provided that such permit is required for the use at the time re-establishment or recommencement is proposed. The following shall constitute conclusive evidence that the conditional use has been discontinued:

- 1. A permit to change the use of the property has been issued and the new use has been established; or*
- 2. The property has not been devoted to the authorized conditional use for more than twenty-four (24) consecutive months.*

Property which is vacant, except for dead storage of materials or equipment of the conditional use, shall not be considered as being devoted to the authorized conditional use. The expiration of licenses necessary for the conditional use shall be evidence that the property is not being devoted to the conditional use. A conditional use in a multifamily structure or a multitenant commercial structure shall not be considered as discontinued unless all units are either vacant or devoted to another use.

F. Minor structural work which does not increase usable floor area or seating capacity and does not exceed the development standards applicable to the use shall not be considered an expansion, unless the work would exceed the height limit of the zone for uses permitted outright. Such work includes but is not limited to roof repair or replacement and construction of uncovered decks and porches, bay windows, dormers, and eaves.

SMC 23.57.010 Single Family and Residential Small Lot zones.

a. The proposal shall not be significantly detrimental to the residential character of the surrounding residentially zoned area, 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 proposal will not be significantly detrimental to the residential character of the surrounding residentially zoned area. The proposed utility is a co-location on an existing 100' monopole which is supported by the Land Use Code. While the proposed mounting is a candelabra design, there are existing candelabra mounted personal wireless facilities on the pole. The existing conditions will help minimize the visual impact of the proposal. Also, it is located between the two existing candelabra

mounted utilities. The subject site is a Park and Ride lot, while Interstate 5 abuts the site to the west. To the east is Jackson Park Golf course.

The required third party review and representative consultant who reviewed this permit is confident that considering the current technology needs of personal wireless carriers, flush mounting of the antennas is not possible even if done in two different locations on the pole. The proximity of the antennas when flush mounted would create interference and poor reception quality as a result. Also, the consultant felt that if flush mountings were required or if the antennas were placed in two separate locations on the pole it would likely result in the carrier seeking out another site to meet service objectives.

As a result, this criterion is satisfied.

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

As stated above, the applicant was required to submit to a third party review and the consultant firm, Hatfield and Dawson, conducted the review. This consultant is one of three approved by the City of Seattle to perform third party review for telecommunications review. The applicant asserted that the candelabra mountings are required because of four factors:

1. Each sector must have four antennas. Two of these will be for the Cellular band, and two will be for PCS band operations.
2. Because each band of operation requires different antenna beamwidth and downtilt values, dual band antennas cannot be used.
3. There is not enough physical space at any single level on the monopole to accommodate flush mounting of all twelve antennas,
4. Antennas cannot be split up and placed at different levels because of the substantial height differences due to the mechanical configuration of the existing monopole being reused and a significant coverage reduction for the lower antennas.

The applicant's basis for proposing the candelabra mounting were agreed upon by the consultant. The consultant stated,

“Based on the recent justification letter prepared by Mr. Blaschka (applicant's RF engineer), construction drawings provided by Verizon representatives and my own experience with personal wireless facilities, I believe that the supplied materials offer a reasonable RF engineering presentation that is internally consistent, and presents a plausible justification for the requested antenna type and mounting arrangement for the proposal...”

As a result of the above the analysis, the proposal is consistent with this criterion as the allowance of the candelabra mounting will greatly reduce the likelihood of future additional minor communication utility sites in the immediate vicinity, thus minimizing visual impacts at other siting locations.

c. 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:

(i) The antenna is at least one hundred (100) feet from a MIO boundary, and

(ii) The antenna is substantially screened from the surrounding neighborhood's view.

Not applicable.

d. If the proposed minor communication utility is proposed to exceed the permitted height of the zone, the applicant shall demonstrate the following:

(i) The requested height is the minimum necessary for the effective functioning of the minor communication utility, and

The applicant's licensed engineer has submitted a memo stating that lowering the antennas below the existing antennas on the pole would result in significant coverage reduction. It was also stated that mounting the antennas as proposed is only practical way to install them and meet the coverage criteria. Requiring the antennas to meet the height requirements may result in the need for alternate sites and would greatly reduce the effective functioning of the minor communication utility; this was echoed by the consulting third party engineer.

(ii) Construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

The location of the Jackson Park Golf Course to the east of the site proposal, the proximity to Interstate 5 to the west and the fact that the applicant is co-locating on an existing monopole make the proposed site ideal. Considering that this site alone will meet the service objectives of the applicant, no other sites should be required by the applicant to fill the service gap. In this case the less obtrusive test is directly related to the candelabra mounting. The candelabra mountings are acceptable in this case because of the following of factors:

1. The existence of candelabra mounted service providers already on the monopole above and below the proposal location.
2. There are no sites or structures in the vicinity that have the elevation necessary to match the existing monopole.
3. The allowance of the 12 panel antennas will reduce the necessity for additional siting locations in Single Family zones or other locations in general.
4. The conditional use and third party review would not have been required if the threshold for "physical expansion" was not crossed, but the candelabra mounting crosses that threshold.
5. The third party review concurs with the applicant's assertions.

As a result this criterion is satisfied.

e. 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.

Not applicable.

f. If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009 A, except for minor communication utilities located on a freestanding water tower or similar facility.

The site is proposed on an existing monopole and would be permitted outright if the antennas were flush mounted and didn't cross the threshold for "physical expansion." The siting or co-location on the pole is supported by DPD, the candelabra mounting while generally discouraged is amenable in this case because of the surrounding uses, lack of comparable sites at the monopole's available elevation and the third party review conducted and approved related to the project.

ACU – DECISION

The proposal is **GRANTED**.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was originally made in the environmental checklist dated March 15, 2006. The information in the checklist, MUP plans, planner's site visit, 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 to 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; 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 of these impacts pursuant to SEPA authority is warranted.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for all impacts. The initial installation of the antennas and construction of the equipment room may include

some loud equipment and activities. Considering the proximity of Interstate 5 and short term construction requirements for the installation of the antennas, this construction activity will not have adverse impacts on nearby residences. Due to the project's large distance to nearby residences and proximity to Interstate 5, the Department finds that the limitations of the Noise Ordinance are adequate to appropriately mitigate the adverse noise impacts associated with the proposal. No limits or conditioning is needed to mitigate construction impacts.

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 23.57.012-C2) 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 were 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 – ACU

None.

CONDITIONS - SEPA

None.

Signature: (signature on file) Date: March 1, 2007
Lucas DeHerrera, Land Use Planner
Department of Planning and Development

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