



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:** 3004735  
**Applicant Name:** Craig Wilson for Clearwire LLC  
**Address of Proposal:** 1964 26<sup>th</sup> Avenue West

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a new minor communication utility (Clearwire LLC) consisting of three panel antennas and two microwave dishes on the roof of an existing apartment building. The equipment cabinet will also be located on the roof.

The following approvals are required:

**Administrative Conditional Use Permit** – to allow a minor communication utility in a Lowrise 2 zone to exceed the 25 foot height limit – Section 23.57.011B Seattle Municipal Code (SMC).

**SEPA – Environmental Determination** – (Chapter 25.05 SMC).

**SEPA DETERMINATION:**  Exempt  DNS  EIS

DNS with conditions

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

**BACKGROUND DATA**

**Site Description**

The site is zoned Lowrise 2 (L-2) and is a corner lot located on the southeast corner of West Newton Street and 26<sup>th</sup> Avenue West. The site is developed with a three story nine unit multifamily structure.

### Area Development

Development along the arterial Thorndyke Avenue West is predominantly multifamily. Development in the large single family zone to the west and south is primarily single family residences on lots of varying sizes and shapes. There is a park one block to the south along Thorndyke Avenue West. The Interbay railroad switching yard is located to the east of the site.

### Description of Proposal

Clearwire LLC proposes to install a telecommunications facility consisting of an electronic cabinet, three transmit-receive panel antennas and two microwave dish antennas. These antennas will be mounted in a faux chimney constructed around an existing chimney structure which is capped and unused. The antennas will be concealed within a fiberglass shroud. The shroud will match the color and finish of the existing chimney and will completely screen the equipment from view.

The radio electronics cabinet will be mounted on the building's roof in a separate location from the antenna "chimney". A screen will be constructed around the cabinet that extends the finish of the existing elevator and stairwell penthouses so that the finished structure will appear as a single feature, joining the penthouses. The exterior finish of the new enclosure will match the materials and finishes of the existing penthouses. A single Ethernet cable conduit resting on the building roof will link the electronics cabinet to the antenna arrays.

Access to the roof is controlled. The door is locked and only authorized maintenance personnel are permitted on the roof. There is no public access allowed. A Standard FCC approved warning sign will be placed on the locked roof door warning of the presence of radio signals emanating from the telecommunications facility as required under SMC Section 23.57.011C4.

Regular maintenance of the telecommunications equipment will occur periodically. When required to do so, a maintenance technician will visit the site during normal business hours to service equipment as needed. One of the existing curbside street parking spaces will be used by the technician. It is expected that routine maintenance visits will be brief, typically less than an hour in duration.

### Public Comment

Three comment letters were received during the comment period which ended July 12, 2006. Concerns were expressed about: view blockage, potential noise, and the health effects of microwave radiation.

### **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 proposed antenna arrays have been positioned on the roof in a location that will be shielded from street view by being mounted within a fiberglass “chimney” shroud. The small electronics cabinet which serves the antennas will be roof-mounted and screened so that only the screening will be visible from the street front. The applicant has provided photographic evidence suggesting that the visual intrusions are minor. Following installation the facility will be unmanned and automated so that its operation is minimally intrusive to the building occupants as well as to any residents living in surrounding apartments. Any vehicular or pedestrian trips to or from the site in association with the facility will be infrequent and minimal. There will be no displacement of residential units in the building or the immediate neighborhood as a result of developing this project.

Installation of visual screen shrouds will enclose the antenna arrays and the radio cabinet. The standard Clearwire equipment cabinet has a small fan to exhaust heat. It has a rate point source of 44 dBA measured at the vent of the fan. The standard measured noise level of the cabinet falls below the threshold of allowable night noise (45 dBA) measured at the property line. Ambient noise levels in the vicinity tend to be slightly elevated because of the proximity of an arterial route, Thorndyke Avenue West, which contributes to an increase in background noise.

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 installed, cell phone coverage in the area will be improved which will be beneficial to users in the neighborhood.

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. 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:*
  - 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 criterion 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 height limit is 25 feet in this Lowrise 2 zone. The proposed height of the minor communication utility is ten feet (10') above the rooftop, with a total height of thirty-seven feet (37.10') 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.

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 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 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**

The application is **CONDITIONALLY APPROVED**.

## **ANALYSIS – SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated June 1, 2006. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) 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 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### Short-Term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase in 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 25.05.675B 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 requirements 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 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).

**ADMINISTRATIVE CONDITIONAL USE AND 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 abut 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 7:30 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.
2. Screening shall be integrated with the architectural design, materials, shapes and colors that are consistent with the current exterior of the building. The screens shall be designed to mimic the look of brick chimneys.

Signature: (signature on file)  
Malli Anderson, Land Use Planner  
Department of Planning and Development  
Land Use Services

Date: December 14, 2006