



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: 3005010
Applicant Name: Craig Wilson for Clearwire LLC Wireless
Address of Proposal: 1200 Boylston Avenue

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a minor communication utility (Clearwire LLC) consisting of three panel antennas, three microwave dishes, and one equipment cabinet all enclosed within shroud assemblies on the rooftop of an existing residential building.

The following Master Use Permit components are required:

Administrative Conditional Use - to allow a minor communication utility in a Highrise zone (Seattle Municipal Code (SMC) 23.57.011B).

SEPA – Environmental Determination - Seattle Municipal Code (SMC) 25.05.

SEPA DETERMINATION

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

BACKGROUND DATA

Site Visit: September 6, 2006.

Zoning: Residential, Multifamily, Highrise (HR).

Site & Vicinity Description

This approximately 10,796 square foot proposal site is a rectangular lot located at the intersection of Boylston Avenue and Seneca Street. The site is zoned Residential, Multifamily, Highrise (HR). The site is developed with a ten-story condominium building. There is a slight slope from the southwest down to the northeast. The site is not located within any mapped critical areas.

Surrounding Uses and Zoning

The Residential, Multifamily, Highrise (HR) zone extends further in all directions in the immediate vicinity. The development in the vicinity of the proposal site is mixed and contains institutional and multi-family residential uses.

Proposal Description

The applicant proposes to place three panel antennas, three microwave dishes, and one equipment cabinet on the roof of an existing condominium building. One antenna will be mounted on the side of the lower penthouse. The other two antennas will be mounted on the side of the upper penthouse. The microwave dishes will be mounted in between the upper penthouse and the chimney. The equipment cabinet will be located at the base of the upper penthouse. All installations will be visually screened to architecturally blend with the existing building. The installations will not increase the height of the building.

The antennas would be located on the roof of the building, which is not accessible to the building's residents. Signs would be posted at the roof access points warning of the presence of radio frequency radiation per FCC guidelines. The site is an unmanned facility that would require approximately one maintenance visit every six months. No change in the frequency of visits to the site is expected as a result of this proposal.

Public Comment

The initial comment period for the proposed project ended on August 16, 2006. During the comment period, no comment letters were received.

ANALYSIS - ADMINISTRATIVE CONDITIONAL USE PERMIT

The proposal site is zoned Residential, Multifamily, Highrise (HR). Minor communication utilities in a HR zone which exceed the height limit may be permitted by Administrative Conditional Use Permit when the proposal meets development standards set forth in SMC 23.57.011 and the following criteria:

1. *The minor communication utility shall not result in a commercial intrusion, which would be substantially detrimental to the residential character of the surrounding residentially zoned area.*

The minor communication utility is proposed to be located on the rooftop of an existing ten-story condominium building that is zoned Residential, Multifamily, Highrise (HR). The building façade is over 84 feet high.

All installations will be visually screened to architecturally blend with the existing building. The installations will not increase the height of the building. The electronics cabinet will be attached to the northerly wall of the building penthouse which will provide further screening from street level view. The installations do not emit smoke, noise, odors, light or glare or create hazardous waste. There would be almost no vehicular traffic associated with the installations, once installed, which would impact the surrounding neighborhood. Given these conditions, the proposed minor communication utility would be minimally obtrusive and not detrimental to surrounding residential areas.

2. *If the minor communication utility is proposed to exceed the zone height limit or is a transmission tower, the applicant shall demonstrate the following:*
 - a. *The need for the proposed communication utility to be in a residential zone and a justification for the proposed height;*

Clearwire LLC provides wireless communication services to customers utilizing Global System for Mobile Communication (GSM) technology. This technology uses call signals that must be transferred or “handed” from one communication utility to another in an unobstructed path as a user moves to ensure a continuous flow of the call signal. Clearwire LLC chose the proposal site as the location for a minor communication utility based on the company’s need to provide stronger signal strength in the vicinity of the site. The applicant states that there are no existing structures in the area which would allow equivalent provision of service. The nearest commercially zoned area is several blocks away and thus, is too far removed from the center of this search ring for adequate coverage. Additionally, that commercial area has buildings with lower heights which would lead to signal obstruction by higher structures. Another constraint was the lack of owners of taller multifamily buildings willing to rent space for this proposed facility, so other options for placing transmission sites in this immediate vicinity were limited.

The height of the proposed utility is required to provide adequate clearance above obstructions to the signals such as other buildings and to provide a direct signal path to other communication utilities used for Clearwire’s GSM system. The additional height above the zone maximum is the minimum required to obtain sufficient coverage.

- b. *That the proposed materials, shape and color of the proposed utility or device will minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible;*

The proposed antenna arrays have been positioned on the roof in a location that will be shielded from street view by being mounted within fiberglass screen shrouds. All shrouds for antennas and radio cabinet will be color-matched to the existing building. The condominium building is higher than any adjacent structures, thus, the proposed installation will also not obstruct any views.

- c. *That the proposed communication utility will not be substantially detrimental to the residential character of an area, for example, through the demolition of residential dwelling units in a residential zone.*

As previously discussed, the proposed minor communication utility will not be substantially detrimental to the streetscape character or residential character of the surrounding neighborhood. No residential dwelling units will be displaced by the proposed project, traffic impacts will be negligible and the antennas will not smoke, noise, odor or light. This criterion is satisfied.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was originally made in the environmental checklist dated July 7, 2006. The information in the checklist, the applicant’s statement of compliance with the Federal Communication Commission, supplemental information, and the experience of the lead agency with 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 and 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 regulations are adequate to achieve sufficient mitigation*" subject to some limitations. It may be appropriate to deny or mitigate a project based upon 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: a.) decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; b.) increased traffic and demand for parking from construction equipment and personnel; c.) consumption of renewable and non-renewable resources. These impacts are expected to be very minor in scope and of very short duration for 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 most impacts. The installation of the antennas, microwave dishes, and equipment cabinets may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences and residences in the subject building. Due to the close proximity of nearby residences, the Department finds that the provisions within 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 7:30am and 6:00pm.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of this proposal, namely increases in demand for energy and increased generation of electromagnetic radiation emission. These long-term impacts are not considered significant of sufficient adversity to warrant mitigation. However, due to the widespread public concern 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 King 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 maximum permissible exposure (MPE) limits. The Department of Public Health does not believe these utilities to be a threat to public health.

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 signal interference in nearby homes and businesses or in clinical medical applications were to result from this proposal, the FCC has the authority to require the facility to cease operation until the issue is resolved.

This analysis and decision is based upon the information presented above, review of the literature regarding these facilities, and the experience of the Departments of Planning and Development and Public Health with the review of similar projects. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted. Furthermore, the FCC has pre-empted the ability of local jurisdictions to mitigate these facilities based on health effects.

DECISION – SEPA

This decision was made after review of a completed environmental checklist and other information on file by the responsible official on behalf of the lead agency. 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 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 permits 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 weekday hours between 7:30am and 6:00pm. This condition may also 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 work exterior to the building after approval from the Land Use Planner.

