



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: 3006503
Applicant Name: Jacob Hamilton for Urban Development Association
Address of Proposal: 119 19th Avenue

SUMMARY OF PROPOSED ACTION

Land Use Application to expand use for installation of a minor communication utility (Nextel), consisting of the addition of two antennas, for a total of eight antennas. All antennas will be mounted to the roof of an existing apartment building. The project also includes connecting proposed antennas to existing accessory equipment cabinets within a secured room in the basement level.

The following approvals are required:

- Administrative Conditional Use** - to allow a minor communication utility in a Multifamily Lowrise zone. Section 23.57.011.C, Seattle Municipal Code.
- SEPA - Environmental Determination** - Chapter 25.05, Seattle Municipal Code

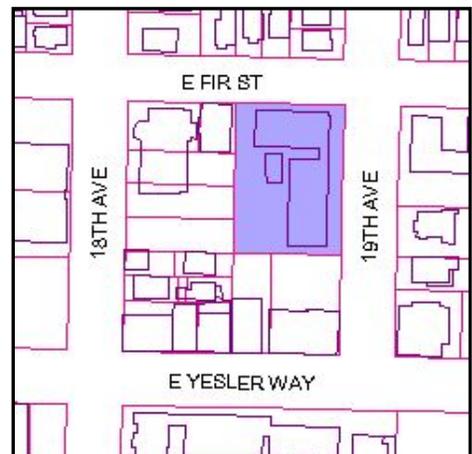
- SEPA DETERMINATION:** EXEMPT DNS MDNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition involving another agency with jurisdiction.

**Early Notice DNS published March 8, 2007.

BACKGROUND DATA

Site Location and Description

The subject property is a corner lot that is bounded by East Fir Street to the north and 19th Avenue to the east, near the south edge of Squire Park neighborhood. The site is bounded to the north by 18th Avenue. The subject site is rectangular in shape (128 feet x 160 feet) and encompasses a land area of approximately 23,040 square feet in a Multifamily Lowrise Three (L3) zone, with a density requirement of one unit per 800 square feet. The site is also located within the 23rd & Union-Jackson Residential Urban Village.



The subject site modestly slopes downward in two directions, from its high point located near the site's northeast corner to the west and south. The site is developed with an existing two-story apartment building, with a daylight basement. The building constructed in 1963, is modestly designed, the "L"-shaped building is nonconforming to current land use multifamily development standards; and as such, any new development activity shall not increase the extent of the existing nonconformity. The site is fully developed with the aforementioned building occupying a significant portion of the development site, surrounded by modest landscaping and accessory surface parking lot. The rooftop features an existing minor communication utility (Nextel), with six antennas arrayed in two clusters, one group near the north and the other near the south end of the building. One cluster (of three antennas) is located within canister chimney screening shrouds, with the other cluster of antennas visually exposed. The abutting rights-of-way are fully development streets with curbs, sidewalks, and gutters. Access to the surface parking lot is located through a curb cut along East Fir Street near the site's northwest corner.

The site is not located in any identified or designated Environmentally Critical Area (ECA).

Area Development

The site located at the southwest corner of the intersection of East Fir Street and 19th Avenue, sits near the west crest of a plateau over looking Downtown to the west. The neighborhood features a mix of older single family and multi-story residential structures. The development site is located within a vast L3 zoning area that is currently undergoing a significant transition as older residential uses are making way to new townhouse development.

To the south a Neighborhood Commercial One zone with a height limit of 40 feet (NC1 – 40) zoning band surrounds Yesler Way that stretches approximately three and a half blocks to the east and west. A mix of commercial uses, including retail, offices and restaurant uses are found along this section of Yesler. This commercial corridor is underdeveloped with one and two-story commercial structures and vacant land. Outside this commercial strip along Yesler, the older housing stock is dominated by a mix of single and family structures built as early as 1903. To the south across East Yesler, Bryant Manor, an apartment complex resides, further east Edwin Pratt Park, a spacious city park serves the greater area. Located one block west along Yesler, is a Seattle Historical Landmark Building, Langston Hughes Theater.

Proposal Description

This Master Use Permit (MUP) application proposes to expand the use of an existing minor communication utility (Nextel) on the rooftop of an existing two-story residential building. The proposed expansion will consist of the addition of two (2) panel antennas, for a total of eight (8) antennas. One antenna will be located within a simulated canister chimney shroud near the south end of the building, extending approximately six feet above the top of roof; to match the existing three antennas. The second antenna will be mounted to a skid attached to the rooftop, extending to a maximum height of six feet above roof top. The shroud assemblies will extend one foot above the antennas, to a maximum height of seven feet above roof elevation. Additionally, the applicant has proposed to connect the two proposed antennas to existing equipment cabinets, located in a secured room within the basement level.

The highest portion of the proposed minor utility and screening is proposed to be 37.5 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 establishing or expanding a minor communication utility in a residential zone, which is one component of this review.

Public Comment

Date of Notice of Application: March 8, 2007
Date End of Comment Period: March 21, 2007
Letters: 0
Issues: No comment letters were received during the public comment period which ended on March 21, 2007.

ANALYSIS AND CRITERIA - ADMINISTRATIVE CONDITIONAL USE

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multifamily Lowrise Zone with the approval of an administrative conditional use permit when the establishment or expansion of a minor communication utility regulated pursuant to Section 23.57.002, meets the development standards of subsection C and the requirements of this section enumerated below:

- 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.*

The applicant's plans depict a thoughtful integration of the proposed telecommunication facility in two roof top locations. By proposing a screening technique that resembles a mechanical penthouse at the building's north end, which is nearly compatible to the existing building's architectural characteristics. The applicant has succeeded in nearly designing a cohesive relationship to the existing architectural scheme of the existing building. To the south, approximately 124 feet, three existing antennas are individually encased within canisters which will be replicated with the addition of the new antenna. Architecturally, these two screening techniques, faux penthouse and canisters, effectively harmonizes with the scale of the existing building. Visually, the distance between the two antenna groupings is not incongruous with the existing conditions and façade treatment. Due in part to the alignment of the existing antennas encased within the canisters, it was determined to continue with the screening technique. To change the shroud assembly into a faux penthouse by squaring up all four antennas would be detrimental and visually intrusive upon neighboring properties. So it was determine by DPD to continue with the existing screening techniques at the building's southern edge.

The two proposed antennas will each be mounted on the rooftop, within enclosed screening structures, extending approximately 7 feet above roof elevation near the north and south end of the building. As viewed from abutting properties the screening casings (faux penthouse and chimneys) housing the panel antennas, on face appearance, will look and appear to function like a mechanical penthouse and chimney. Views from neighboring residential properties will not be further impacted by the addition of two antennas. The applicant has provided photographic simulated evidence suggesting that the visual intrusion would not be increased and would be minor in scope.

The site was chosen based on height and location considerations within this residential area to maximize coverage at a location where they are already established. The two proposed antennas will increase the number of antennas to a total of eight at the subject lot. The antennas will be attached to the rooftop and will be fully screened with materials that will be sympathetic in materials and design to existing roof top features, thus satisfying this criterion (See applicant's declarations and submitted plans).

The proposed minor communication utility is not likely to result in any substantial detrimental compatibility impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely be impacted any further with the utility's upgrade, in terms of its bulk and scale, its land use once the upgrade is completed there will be no additional visual impacts. As a result of the expansion, cell phone coverage in the area will be improved this will likely be beneficial to many residents and visitors to the neighborhood.

Traffic will not be affected by the presence of the expanded minor communication facility. The antennas will not emit noise, and any noise associated with the equipment cabinet will be shielded by the walls of the room in which it is to be located - within the apartment building's basement level. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

As proposed, the minor communications utility will not constitute a commercial intrusion that will be substantially detrimental to the residential character of the surrounding neighborhood. The submitted documents and plans note that the proposed devices will be painted to match the existing color palette of the existing building. Given these existing conditions and additional camouflaging screening techniques of the antennas encased within the screening shroud, the proposed minor communications utility would be minimally obtrusive and not detrimental to the residential streetscape character along 19th Avenue and East Fir Street.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible in the form of a faux penthouse and canister chimney exterior shell. It will be designed to resemble existing architectural treatments on the structure's façade, and will be in keeping with other roof features in order to successfully screen and camouflage the antenna location. The proposed faux form like screening devices of the antennas and related equipment would blend with the color of the building and is a condition of approval of this permit. The associated cabinet equipment will be located in the existing retrofitted equipment room within the basement level, and shall pose no impacts to neighboring properties. The equipment cabinet will be placed within a partitioned room with one access door.

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; therefore, this provision is not applicable.

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 proposed height of the minor communication utility meets the exception criteria permitted under SMC 23.57.011.C.2. 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 is not proposed for a new freestanding transmission tower. Therefore, this provision does not apply.

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. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. 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 PERMIT

This application to install a minor communication utility in a Multifamily Lowrise zone, which is above the height limit of the underlying zone, is **CONDITIONALLY APPROVED**.

SEPA ANALYSIS

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 Jacob Hamilton dated January 26, 2007. 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 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 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).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

The owner(s) and/or responsible party(s) shall:

1. Revise plans to document exterior color palette for proposed shroud screening of the antennas, cables, and related equipment to blend with the color of the building. This shall be to the satisfaction of the Land Use Planner.

Land Use Code Requirement (Non - Appealable) Prior to Issuance of Master Use Permit

2. The owner(s) and/or responsible party(s) shall provide access and signage in accord with Section 23.57.010E4 which restrict access to minor communications utilities to authorized personnel. This shall be to the satisfaction of the Land Use Planner.

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 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.

3. 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: June 7, 2007

Bradley Wilburn, Land Use Planner
Department of Planning and Development
Land Use Services

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