



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: 3009530
Applicant Name: Todd Walton for Clearwire
Address of Proposal: 705 East Thomas Street

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a minor communication utility (Clearwire) consisting of three panel antennas and three microwave dishes on the rooftop of an existing multi-family structure. The equipment cabinet is to be located in the basement.

The following approvals are required:

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

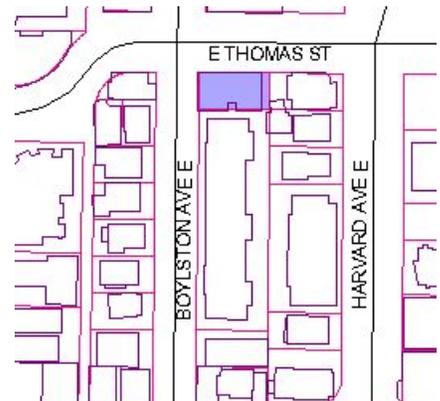
Administrative Conditional Use Review - to allow a minor communication utility in a residential Midrise (MR) zone.

SEPA DETERMINATION: Exempt DNS MDNS EIS
 DNS with conditions
 DNS involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site and Vicinity Description

The proposed site is situated on the southeast corner of the intersection of Boylston Avenue East and E Thomas Street, in the Capitol Hill neighborhood. This location is also within the Capitol Hill Urban Center Village. The property contains a total area of approximately 3,093 square feet. The parcel and existing building are within a Midrise (MR) zone. Development on the site consists of a four-story apartment building with 15 dwelling units. Off-site parking is not provided. The entire area slopes to the west.



Adjacent Zoning and Uses

South: Multifamily uses, Midrise (MR) zone;
North: Multifamily uses across E Thomas St, MR zone;
East: Single-family and multifamily uses, MR zone;
West: Single Family and multifamily uses, MR zone.

Proposal Description

Clearwire is proposing a minor communications utility that consists of six antennas to be located within a faux penthouse screen on the roof of an existing apartment building and radio cabinets located within a room adjacent to the laundry area within the apartment building's basement. The faux penthouse is proposed to be located on the roof approximately 13' from the southern roof edge. This is the closest the facility will be located to the building's edge. There will be an eighteen inch cable tray that will lead from the roof to the proposed equipment room. The proposed equipment room is located in the basement adjacent to the building's laundry room. The equipment room will be accessed only by the appropriate personnel.

Public Comments

The public comment period for this project ended November 26, 2008. DPD received two written comments regarding this proposal. One comment stated that the proposal will result in a negative impact on surrounding viewscales and result in lower property values. The other comment was opposed to the proposal due to potential health impacts from EMF radiation.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.011.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Multi-Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations 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 project will not displace any residential units since it is located on the building's rooftop. The facility will not be materially detrimental to residential character of nearby residential properties nor residentially zoned areas since it will be housed within a faux brick penthouse that will screen the proposed telecommunication antennae and dishes. This is the least intrusive location that will effectively provide service.

The proposed minor communication utility is not likely to result in substantially detrimental compatibility 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 it is constructed, and data transmission coverage in the area will be improved which will likely be beneficial to many residents and visitors to the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, and any noise associated with the equipment cabinets will be shielded by the proposed location within a secure room next to the building's laundry facilities.

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 antennas will be entirely 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, as detailed below.

23.57.016 Visual Impacts and Design Standards:

- A. *Telecommunication facilities shall be integrated with the design of the building to provide an appearance as compatible as possible with the structure. Telecommunication facilities, or methods to screen or conceal facilities, shall result in a cohesive relationship with the key architectural elements of the building.*

The applicant's plans depict integration of the screening facility into the architectural design of the existing building by proposing a faux brick penthouse screen which will match the color and texture of the host building. The screened antennae will be sympathetic in materials and design to that of a stair or elevator penthouse. Therefore, the proposal complies with this criterion. The fact that one property might have somewhat better view of the installations than typical properties in the area is acknowledged.

- B. *Not Applicable.*

- C. *If mounted on a flat roof, screening shall extend to the top of communication facilities except that whip antennas may extend above the screen as long as mounting structures are screened. Said screening shall be integrated with architectural design, material, shape and color. Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures shall be no taller than such structures.*

The applicant's plans depict screening that extends to the top of the proposed facilities. Integration of the screening facility into the architectural design of the existing building is proposed via an effective screen that will represent itself as a stair or elevator penthouse and by using screen colors that generally blend with the color and texture of the host building.

- D. *Not Applicable.*

E. *Not Applicable.*

F. *New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building.*

No existing antennae or minor communication utility equipment exists on the subject structure.

G. *Not Applicable.*

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.*

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 faux penthouse screen, encasing the proposed antennae does not exceed the height limit for the Midrise (MR) zone. 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.*

Not applicable.

SUMMARY

The proposed project is consistent with the Administrative Conditional Use criteria of the City of Seattle Municipal Code as it applies to minor communication utilities. The facility is minor in nature and will not be substantially detrimental to the surrounding area while providing needed and beneficial wireless communications service to the area.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application 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 Seattle's SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated September 8, 2008. The information in the checklist, supplemental information provided by the applicant (soils report), project plans, 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 25.05.665 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 certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to hydrocarbon emissions from construction vehicles and equipment; increased noise; increases in carbon dioxide and other greenhouse gas emissions and consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Building code provides for construction measures and life safety issues. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment and no further conditioning pursuant to SEPA policies is warranted.

Air

Greenhouse gas emissions associated with development come from multiple sources; the extraction, processing, transportation, construction and disposal of materials and landscape disturbance (Embodied Emissions); energy demands created by the development after it is completed (Energy Emissions); and transportation demands created by the development after it is completed (Transportation Emissions). Short term impacts generated from the embodied emissions results in increases in carbon dioxide and other green house gases thereby impacting air quality and contributing to climate change and global warming. While these impacts are adverse they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this specific project. The other types of emissions are considered under the use-related impacts discussed later in this document. No SEPA conditioning is necessary to mitigate air quality impacts pursuant to SEPA policy SMC 25.05.675.A.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The construction of the faux penthouse 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 7:30 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 including: greenhouse gas emissions and environmental health.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies.

Greenhouse Gas Emissions and other Impacts

Emissions from the generation of greenhouse gases due to the increased energy and transportation demands may be adverse but are not expected to be significant due to the relatively minor contribution of emissions from this specific project. The other impacts such as but not limited to, increased ambient noise, and increased demand on public services and utilities are mitigated by codes and are not sufficiently adverse to warrant further mitigation by condition.

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.

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 43.21C), including the requirement to inform the public 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 2C.

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 2C.

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. As 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 7:30 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.

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

None.

Signature: (signature on file)
Craig Flamme, Land Use Planner
Department of Planning and Development

Date: February 19, 2009