



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: 3010005
Applicant Name: Madeline Chaney for Verizon Wireless
Address of Proposal: 3218 Eastlake Avenue East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a minor communication utility consisting of 12 panel antennas and four new equipment cabinets on the rooftop of an existing retail/apartment building (Verizon).

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 neighborhood commercial (NC2P-40) 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 southeast of Interstate 5 (I-5) and just north of the Harvard Avenue East and Eastlake Avenue East intersection, in the Eastlake Residential Urban Village Overlay. The property contains a total area of approximately 10,920 square feet. The parcel and existing building are within a Neighborhood Commercial 2 Pedestrian (NC2P -40) zone with a 40' height limit. Development on the site



consists of a multi-story mixed-use apartment building with 18 dwelling units. Off-site parking for 39 stalls is provided within the building. The entire area sloped upward to the east prior to the existing development. The alley is approximately 20 feet higher than the Eastlake Avenue East frontage. Residential parking is accessed from the alley while commercial parking accesses the building from Eastlake Avenue East. The Eastlake Avenue East frontage contains the commercial uses at street level with the commercial parking behind and is considered to be within the building's underground portion. Residential parking is above the commercial uses with one level of residential uses above the parking. The east side of the building provides the access to the residential parking with two levels of residential uses above the garage entrance.

Adjacent Zoning and Uses

South: Mixed uses, NC2P-40 zone;
North: Mixed uses NC2P-40 zone;
East: Residential uses, Lowrise 3 (L3) zone;
West: Mixed uses, NC2P-40 zone.

Proposal Description

Verizon is proposing a minor telecommunications utility that consists of twelve antennas to be located within two faux penthouse enclosures. One enclosure will contain 4 antennae within a 4-foot extension of the existing stair penthouse on the north side of the building. The other enclosure is a faux rooftop penthouse (described as a "doghouse" by the applicant) and will contain the 4 radio cabinets serving all of the antennae and the remaining 8 antennae. This "doghouse" is located on the south side of the building. The entire telecomm utility will be located on an existing mixed-use 18-unit building (Union Bay Lofts). The "doghouse" containing the equipment cabinets and the 8 telecomm antennae is proposed to be located on the roof approximately 32 feet from the eastern property line and right at the southern property line. The four other telecomm antennae located on top of the stair penthouse are right at the northern property line and approximately 46 feet from the eastern property line. The proposed telecomm facility are adequately setback from residential uses across the alley and are adequately separated from the building's outdoor residential amenities reserved for the building occupants. Only the appropriate personnel will be able to access the telecomm equipment.

The structure's height was originally calculated utilizing Director's Rule (DR) 12-2005 since the lot was considered to have unusual topographic condition. This allowed the establishment of an assumed grade based on the elevation differences between the alley and Eastlake Avenue East. The project was also able to take advantage of the sloping lot structure height bonus. These height exceptions permitted the structure to be constructed in a way that provided reasonable development on a difficult site. The way the structure height was calculated impacts this project because the proposed screening on the stair penthouse (north façade) brings the proposed telecomm utility above the 15' height limitation (SMC 23.57.012.C.1.b) requiring an Administrative Conditional Use Permit. The calculated maximum permitted height of the stair penthouse roof is 134.3 feet. The proposed telecomm antennae extend beyond the maximum permitted height by 9 feet. The proposed rooftop location of the equipment cabinets and 8 telecomm antennae are within the permissible height limits along the building's south façade.

Public Comments

The public comment period for this project ended June 17, 2009 DPD received no written comments regarding this proposal.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.012.B of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Neighborhood Commercial zone as an Administrative Conditional Use if over the permitted maximum structure height as described in 23.57.012.C subject to the requirements and conditioning considerations of this Section enumerated below (criteria in *italics*).

- 1. The proposal shall not result in a significant change in the pedestrian or retail character of the commercial area.*

The project will not change the pedestrian and retail character of the commercial area since it is located on the building's rooftop and stair penthouse. This is the least intrusive location that will effectively provide service. The proposed RF friendly enclosures will be consistent with the structure's color and building materials.

- 2. If the minor communication utility is proposed to exceed the zone height limit as modified by subsection C of this section, the applicant shall demonstrate that the requested height is the minimum necessary for the effective functioning of the minor communication utility.*

The Radio Frequency (RF) Engineer prepared a report that describes the justification for this project's location. In the report the engineer identified the need to add additional capacity to this area of Seattle. The proposed height of the antennae are also the minimum necessary to provide adequate coverage. An existing facility in the service area is coming to the end of its lease and the lessor is terminating the lease with Verizon Wireless. The proposed facility is intended to replace this facility and is also needed due to increased call traffic and growth in their customer base. There are several design considerations presented by the proposed location. Height differentials of surrounding structures and the rolling terrain features in the area make the proposed antennae height a design challenge. The existing building's design also presented some challenges as well. The antennae serving the easterly and westerly sectors are the minimum height necessary to provide effective functioning of the proposed utility. As an example, preferred antenna height is typically 6 to 8 feet providing excellent coverage and capacity. At this size they would have to be placed flush on the outside of the stair penthouse, encroaching onto the neighboring property. This necessitated the alternate location and the proposed antennae used on the stair penthouse are approximately 4 feet in height to keep the visual impacts to a minimum. Similarly with the antennae height on the south end of the building, these antennae are at the minimum height necessary to clear the upper rooftop's parapet and the angled features of the parapet on the lower rooftop. Effective functioning of the utility will be reached, but there will be an impact to the effective coverage area. As proposed, the applicant has demonstrated that the requested height is the minimum necessary for the effective functioning of the utility.

3. *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.*

This section is not applicable. The proposal is not a new freestanding transmission tower.

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 **GRANTED**.

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 April 22, 2009. The information in the checklist, any supplemental information provided by the applicant 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. SEPA conditioning is not 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 “doghouse” and stair penthouse extension 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) Date: July 23, 2009
Craig Flamme, Land Use Planner
Department of Planning and Development

CF:lc