



City of Seattle

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**Department of Planning and Development**

Diane M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3010199  
**Applicant Name:** Jennifer Taylor for Clearwire  
**Address of Proposal:** 1311 South Massachusetts Street (Beacon Tower)

**SUMMARY OF PROPOSED ACTION**

Land Use Application to expand a minor communication utility (Clearwire LLC) consisting of two microwave dishes and two panel antennas and on rooftop of an existing multifamily structure (Beacon Tower). Existing minor communication utility will remain.

The following approvals are required:

**Administrative Conditional Use Review** - to allow a minor communication utility in Multi-Family Residential Lowrise 3 (L-3) zone pursuant to SMC 23.57.011B.

**Administrative Conditional Use Review** - to allow a minor communication utility to exceed the height limit in a Multi-Family Residential Lowrise 3 (L-3) zone pursuant to SMC 23.57.011B 4.

**SEPA - Environmental Determination** pursuant to SMC 25.05.

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS

DNS with conditions

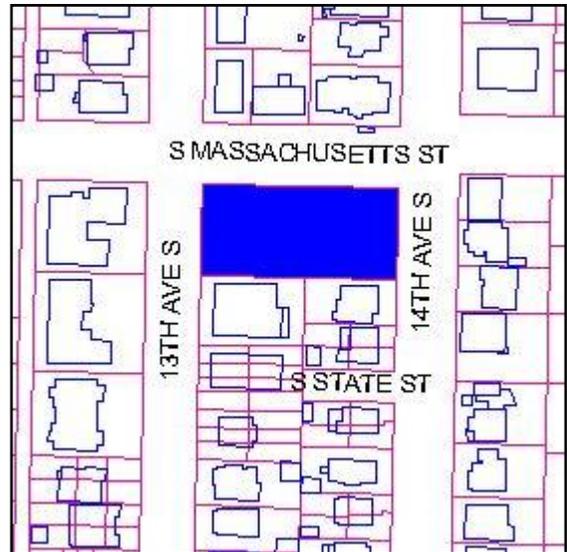
DNS involving non-exempt grading or demolition involving another agency with jurisdiction.

\*Early Notice DNS published March 11, 2010.

## **BACKGROUND DATA**

### **Site and Vicinity Description**

The subject property is located on the north end of the block, between 13<sup>th</sup> Avenue South to the west, 14<sup>th</sup> Avenue South to the east and South Massachusetts Street to the north, in Beacon Hill neighborhood. The site is rectangular in shape and contains a land area of approximately 21,500 square feet. The subject site is nearly flat, with a 4 foot elevation change over a distance of 215 feet. The site is developed with an existing fifteen-story apartment building. The existing building is non-conforming as to height. The building was constructed in 1971, and 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; modest landscaping and accessory surface parking fill out the remaining area. The rooftop features an existing minor communication utilities located in essentially the same location, with accessory equipment cabinets also located on the rooftop. Clearwire LLC currently has a total of nine (panel and dish) antennas on the rooftop. All street frontages abutting the subject lot are fully development streets with curbs, sidewalk, etc. Access to the surface parking lot is primarily obtained through a curb cut along South Massachusetts Street with a secondary access off 13<sup>th</sup> Avenue South. The development site is zoned Multi-family Lowrise Three (L-3), with a height limit of 30 feet. The site is also located within North Beacon Hill Residential Urban Village, Greater Duwamish Neighborhood District, and is not mapped or otherwise known to be in a designated environmentally critical area within the City of Seattle.

The subject lot is occupied by a 15-story residential structure, the tallest building in the vicinity. Zoning for the site is Multi-Family Residential Lowrise Three (L-3) which continues along a moderate sized zoning band along the north/south axis. Outside the L-3 zoning band, Multi-Family Residential Lowrise Two (L-2) is found. Surrounding development consists of older one to two-story single family and multi-family development. A number of new townhouse structures have been recently added to the surrounding area.

### **Proposal Description**

The applicant is proposing a rooftop installation of two panel antennas and two microwave antennas (total of four) screened inside a faux penthouse extension painted to match the building. The proposed devices will be connected to an existing accessory equipment cabinet set within screening shroud flush mounted to the side of the stair penthouse.

The height limit for the L-3 zone is thirty (30) feet above grade, with an exception for minor communication utilities and accessory communication devices permitted to extend beyond that if the requested height is demonstrated to be the minimum necessary for the effective functioning of the utility<sup>1</sup>. An Administrative Conditional Use (ACU) permit is required to exceed the zone height.

The existing apartment building height is approximately 136 feet 6 inches to the roof deck above average grade level. The existing rooftop stairwell and elevator penthouses with parapets extend to a maximum height of 151 feet 6 inches above average grade. The proposed screened antennas and dishes will be mounted on the side of the elevator penthouse to a maximum height of 151 feet 6 inches, in order to provide adequate service coverage to the surrounding area while avoiding building roof edge interference.

#### Public Comment

The public comment period for this project ended March 24, 2010. No comment letters were received.

#### **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.*

The proposed Minor Communication Utility (MCU) will be installed on the roof penthouse of an existing 15-story residential building in an L-3 zone. The subject property is the site of an existing telecommunications facility. The applicant has submitted maps of current and proposed service demonstrating the need for the proposed antennas at the proposed heights at this location to provide service. The subject site's roof performs at a higher level to achieve its coverage.

The site is located near the crest of Beacon Hill; the existing 15-story structure is the tallest structure in the immediate area as viewed from other parts of the city. The proposed design, size, and heights of the antenna screening, in conjunction with their visibility from the surrounding properties and structures, will render the proposed MCU visually un-obtrusive. The shrouding apparatus will fully screen the proposed antennas, matching the building's existing exterior and color, mounted to the side of the elevator penthouse. Cables from the

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<sup>1</sup>Refer to SMC 23.57.011B.4.

proposed antennas will connect to existing cabinets. The existing equipment cabinet is flush mounted to the side of the stairwell penthouse and is painted to be inconspicuous to the building's existing penthouse color. These structures, because of their size and materials, will appear to be a part of the existing structure and therefore will be compatible with the allowed uses in the zone. To the casual observer there will appear to be no visible clues to suggest a MCU is present at the subject site.

Though the subject site is located within a Multifamily Lowrise Three (L-3) zone on a collector arterial street, the host residential development site occupies the least intrusive facility in a residential area that includes L-1, L-2, L-3, and Single Family 5000 zones with height limit ranging from 25 to 30 feet. Providing service to an area with a significant presence of mature trees and sloping topography leaves few options. The applicant seeks to expand the operational capability on an existing building in the surrounding expansive residential zones. With the addition of the proposed antennas the applicant has demonstrated build-out of service coverage area in a least intrusive location.

No water City Light transmission towers, water towers or roof tops of commercial structures were found in the search ring to provide the primary coverage objective. The proposed minor communication utility would be the "least intrusive facility" at the "least intrusive location" consistent with "effectively providing service."

The proposed minor communication utility is not likely to result in significant change to the pedestrian or residential character in the area. Neighbors and tenants of the host building will not likely be impacted by the utility, in terms of its land use, streetscape, and visual intrusion. Once it is constructed cell phone coverage in the area will be improved which will likely be beneficial to many residents and visitors to the neighborhood.

There will be no noise impacts from the proposed antennas. There will be minimal noise impacts from the associated electrical equipment mounted on the roof top. Analysis proved by SSA Acoustics, LLP, confirmed noise levels will fall within established sound thresholds in accordance with the State of Washington and City of Seattle parameters.

There will be limited traffic impacts to the proposed MCU with a monthly scheduled maintenance visit to service the utility. There will be no displacement of residential units.

- 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 fully screened from view and be inconspicuous due to the proposed screening structure while remaining functionally effective for service coverage. The existing equipment cabinets are side mounted to the stair penthouse, from all appearances it blends into the background of typical mechanical devices found on roof tops. Additionally, the subject site sits near the crest of a hill which further obscures line of sight and views from neighboring properties. Therefore, the proposal complies with this criterion.

*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 a thoughtful integration of a screening device into the architectural design of the existing building by proposing screening techniques picking up on the exterior façade finishes of the existing structure that generally match the color and pattern of the host building. The screening device will be sympathetic in materials and design to that of typical roof top features designed for residential buildings. Therefore, the proposal complies with this criterion. (See applicant's declarations and submitted plans)

- 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 plans illustrate locating the antennas on the side of the elevator penthouse to maximize coverage in the lower density residential zone. The shroud assembly will completely encase the side mounted antennas on the elevator penthouse. Integration of the screening facility into the architectural design of the existing building is proposed via screen panels similar to that of existing devices on the penthouse, by using screening colors and patterns that generally blend with the texture of the host building.

The existing mechanical equipment is mounted at the base of the stair penthouse and encased within a shroud assembly. The proposal requires one accessory equipment cabinet and other devices to be mounted to the stair penthouse (141'6" to top of stairwell parapet) within a shroud enclosure. The materiality and color of the equipment shroud will match the existing assemblies on host structure. Roof top mechanical devices are common on roof tops of residential and commercial buildings. It is anticipated the mechanical equipment shroud will continue to blend into the background and will appear consistent with other roof top features. Therefore, the proposal complies with this criterion.

- D. *Not Applicable.*
- E. *Not Applicable.*
- F. *Not Applicable.*
- G. *Not Applicable.*
- H. *Not Applicable.*
- I. *Not Applicable.*
- J. *Not Applicable.*
- K. *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.*

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 existing building is 136 feet 6 inches in height to the roof deck (as measured from the average grade level). The top of the existing elevator penthouse is 151 feet 6 inches approximately 18 feet higher than the roof. The top of the shroud enclosure structure providing antenna screening is proposed at 151 feet 6 inches above average grade level. Documentation within the MUP file provided by the applicant and discussed in *Proposal Description* above, demonstrates the requested antenna heights is the minimum necessary for the effective functioning of the minor communication utility. Placement of the antennas must on the elevator penthouse to obtain an elevation height to clear the buildings edges and to provide adequate signal strength to cover a defined area. The proposed screening height is the minimum necessary to adequately screen the antennas while allowing for proper attachment of the screening to the existing penthouse structure. This proposal, therefore, 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. 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**

The Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

### **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 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.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated January 9, 2010. 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.

### **Short-term Impacts**

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which

adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

#### Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and the equipment 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 Impacts 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 7:00 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: 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.

The City is not aware of interference complaints from the operation of other installations from persons operating electronic equipment, including sensitive medical devices (e.g. - pacemakers). The Land Use Code (SMC 23.57.012C2) 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 interference was to result from this proposal in nearby homes and businesses or in clinical

medical applications, the FCC has authority to require the facility to cease operation until the issue is resolved.

The information discussed above, review of literature regarding these facilities, and the experience of the Departments of Planning and Development and Public Health with the review of similar projects form the basis for this analysis and decision. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted.

The associated equipment will generate some noise; the average ambient noise level was measured at 51dBA, the predicted noise level at the receiver property line is 27 dBA which complies with nighttime noise limits (45 dBA) for residential properties. Due to the location of the equipment no adverse noise impacts during operation are expected and the Noise Ordinance will adequately regulate any noise impacts associated with the proposal.

The long term visual impact of the change is expected to be very minor as discussed in the ACU section above. Provided that the proposal is constructed according to approved plans, no further mitigation pursuant to SEPA is warranted.

### 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**

This decision was made after review of a completed environmental checklist and other information on file with the responsible department and 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 not to have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(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 CONDITION**

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

Prior to MUP Issuance

