



City of Seattle

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: 3010388
Applicant Name: Steven Topps for Clearwire
Address of Proposal: 1613 California Avenue Southwest (Bay Watch
Condominium)

SUMMARY OF PROPOSED ACTION

Land Use Application to install a new minor communication utility (Clearwire LLC) consisting of three panel antennas and two microwave antennas on an existing stairway penthouse rooftop within a shroud enclosure of an existing multifamily structure (Baywatch Condominium). Project includes one new equipment cabinet to be mounted on existing elevator penthouse.

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 October 29, 2010.

BACKGROUND DATA

Site and Vicinity Description

The subject property, which is developed with a four-story multifamily building and partially below grade parking garage, is located on west side of California Avenue Southwest, between Southwest Seattle Street to the north and Southwest Massachusetts Street to the south in the neighborhood of West Seattle.

Zoning for the site is Multi-Family Residential Lowrise Three (L-3) which continues along a narrow zoning band along California Avenue Southwest, running north and south. To the north and northwest three small zoning bands (Multi-Family Residential Lowrise One, Two, and Four (L-1, L-2, and L-4) are found. Surrounding this zoning area the designation changes to Single Family 5000 (SF 5000).



Proposal Description

The applicant is proposing a rooftop installation of three panel antennas and two microwave antennas (total of five) screened inside a faux penthouse extension painted to match the building. Accessory equipment (a mechanical equipment cabinet) will be flush mounted to the side of the elevator 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 utility¹. An Administrative Conditional Use (ACU) permit is required to exceed the zone height.

The existing apartment building height is approximately 34 feet 9 inches to the roof deck with low pitched roofs above that level. The existing rooftop stairwell and elevator penthouses with parapets extend to a maximum height of 43 feet 5 inches above average grade. The proposed screened antennas and dishes will be mounted on top of the penthouse to a maximum height of 47 feet 7 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 November 11, 2009. One comment letter was received expressing concerns that the equipment placed on the roof top would be unsightly and installation of the communication utility could pose adverse health impacts with long term exposure.

¹Refer to SMC 23.57.011B.4.

The Federal Government has taken jurisdiction to evaluate public health concerns associated with these utilities, which supersedes our authority to evaluate health related issues (for additional comments see SEPA section).

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 four story residential building in an L-3 zone. 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 mid-block on the west side of California Avenue Southwest, near the north tip of West Seattle in a neighborhood that consists of structures either built for or converted to multi-family use. 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, set atop the stairwell penthouse. The equipment cabinet will be flush mounted to the side of the elevator penthouse and 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-4, and SF 5000 with height limit ranging from 25 to 37 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 SF 5000 zone. With the addition of the proposed antennas the applicant has demonstrated build-out of service coverage area in a lease intrusive location.

The applicants provided supplemental documentation confirming alternatives sites on roof tops within the L-4 zone, were not available to provide effective coverage for the target area, if allowed at all. 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 equipment cabinets will be side mounted to the elevator penthouse, from all appearances it is anticipated to blend 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 stairwell penthouse roof's center to maximize coverage in the lower density residential zone. The shroud assembly shielding completely encasing the antennas will extend approximately 13 feet above the roof (4 feet above the penthouse). Integration of the screening facility into the architectural design of the existing building is proposed via screen panels similar to that of penthouse and by using screening colors and patterns that generally blend with the texture of the host building.

D. Facilities that are side-mounted on buildings shall be integrated with architectural elements such as window design or building decorative features, or screened by siding or other materials matching the building exterior, or otherwise be integrated with design, material, shape, and color so as to not be visibly distinctive.

The proposed mechanical equipment device will be flush mounted vertically on the elevator penthouse. The color of the equipment device has not been identified in the plan set. Roof top mechanical devices are common of roof tops of residential and commercial buildings. It is anticipated the proposed mechanical device will blend into the background and will appear consistent with other roof top features. Therefore, the proposal complies with this criterion.

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 34'9" in height on the highest western elevation to the roof deck (as measured from the average grade level). The top of the existing stairwell penthouse is 42'7" (43'5" to top of stairwell parapet) approximately 10' higher than the roof. The top of the shroud enclosure structure providing antenna screening is proposed at 47'7" 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 stairwell penthouse rooftop 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 October 9, 2009. 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 45 dBA which complies with nighttime noise limits 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

1. Document within plan set integrated screening with the architectural design, materials, shapes and colors that are consistent with the current exterior of the building as shown in the photo simulations in the MUP file. The trim shall be painted to match the existing building parapet trim color. All screening shall extend down to the roof surface to assure full screening from surrounding existing and future uphill structures. Any material changes shall be approved by the project planner.

Prior to Building Final Approval

2. Compliance with the approved design features and elements, including exterior materials, parapets, facade colors, shall be verified by the DPD Planner assigned to this project. Inspection appointments with the Planner must be made at least three (3) working days in advance of the inspection.

SEPA CONDITION

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 each street right-of-way and the alley. 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.

