



City of Seattle

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: 3010480
Applicant Name: Stephen Topp for Clearwire Wireless Broadband
Address of Proposal: 2021 4th Avenue

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a minor communications utility (Clearwire) consisting of three panel antennas, three RRU's (amplifiers), one microwave dish, and one equipment cabinet mounted on the outside of an elevator penthouse on the roof of an existing building.

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

BACKGROUND DATA

Site and Area Description

The proposed application is for a wireless facility on the roof of the Stratford on 4th residential building, located on 4th Avenue between Lenora and Virginia Streets in the Belltown area of downtown. The site is zoned Downtown Mixed Commercial (DMC 240).

Development in the Vicinity

The area consists of mixed residential and commercial development, including hotels, restaurants and residential buildings. Zoning in the area transitions to higher intensity Downtown Office Commercial (DOC2 300/300-500) in the block to the south, and to a lower intensity zone (Downtown Mixed Residential – DMR/R 125/65) in the block to the northwest.

Proposal Description

The applicant proposes a minor communication utility on the roof of an existing residential building. The proposed utility consists of three (3) panel antennas, three amplifiers, one microwave dish and one equipment cabinet, all mounted to the outside of an existing elevator penthouse on the rooftop of the Stratford on 4th Residential building. While the application originally proposed to mount the panel antennas on the inside of the elevator penthouse, building code restrictions caused a change in the proposal to an exterior mounting.

Public Comments

One written comment was received on this application. The commenter is concerned about possible health effects of the proposed facilities. However, the Federal Communications Commission (FCC) has set limits for human exposure to Radio Frequency (RF) Emissions and the applicant has certified that the facility will comply with these regulations. Federal Regulations preempt the City from having a different RF standard than the FCC.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated 8/10/09, revised 11/19/09, and annotated by the Department. Information submitted with the application includes

- A statement of FCC Compliance and associated evaluation that certifies the proposed installation will comply with FCC regulations regarding EMR (electromagnetic radiation) emissions;
- Floor plans and details;
- Photosimulations of the proposed facility;
- Evaluation of Noise levels for the proposed facility.

The information in the checklist, 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 the 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 environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,”* subject to some limitations. Thus, the mitigation that may be required pursuant to SEPA authority is limited.

Short Term Impacts

Environmental Health

The applicant has submitted a “Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility” affidavit and an accompanying report for this proposed facility giving the calculations of radio frequency power density at the roof, parapet and ground levels expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. The EMR emissions constitute a small fraction of that permitted under the Federal standards.

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 23.05.665).

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 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, namely increased in demand for energy and increased generation of electromagnetic radiation emission. These long-term impacts are not considered significant or of sufficient adversity to warrant mitigation.

Visual

SMC 23.57.016 will provide sufficient mitigation for impacts.

DECISION

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.

- [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 43.21C.030(2)(C).

CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property that is visible and accessible to the public and to construction from both street right-of-ways. 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 exterior work after approval from the Land Use Planner.

Signature: _____ (signature on file) Date: March 11, 2010
Holly E. Anderson, Land Use Planner
Department of Planning and Development
Land Use Services

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