



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

Application Number: 3010628
Applicant Name: Steven Topp for Clearwire
Address of Proposal: 607 3rd Avenue

SUMMARY OF PROPOSED ACTION

Land Use Application to expand a minor communication utility (Clearwire) consisting of three new panel antennas and two new microwave dishes enclosed within two shrouds on the rooftop of an existing residential structure (Lyon building, Landmark Structure). Project includes one new equipment cabinet to be located on the rooftop of the existing structure. The existing minor communication utility is proposed to remain.

The following approvals are required:

SEPA - Environmental Determination (Chapter 25.05, Seattle Municipal Code)

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

BACKGROUND INFORMATION

Site and Vicinity Description

The project is located at 607 3rd Avenue. The location is the Lyon apartment Building. An alley runs along the north south bisecting the block in two. The site is zoned DOC2-A; a Downtown Office Core designation.



Proposal

The applicant is proposing to expand a minor communication utility (Clearwire) consisting of three new panel antennas and two new microwave dishes enclosed within two shrouds on the rooftop of an existing residential structure (Lyon building, Landmark Structure). Project includes one new equipment cabinet to be located on the rooftop of the existing structure. The existing minor communication utility is proposed to remain.

Public Comments

No comment letters were received during the official comment period which ended March 17, 2010.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist (September 29, 2009), and supplemental information in the project file submitted by the applicant's agent. The information in the checklist, the supplemental information, and the experience of the lead agency with the 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 such limitations/circumstances (SMC 25.05.665 D1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to increased dust and other suspended particulates from building activities; 2) increased noise and vibration from construction operations and equipment; 3) increased traffic and parking demand from construction personnel; 4) blockage of streets by construction vehicles/activities; 5) conflict with normal pedestrian movement adjacent to the site; and 6) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically, these are: 1) Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); and 2) Building Code (construction measures in general). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient

mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. The proposal is located within residential receptors that would be adversely impacted by construction noise. Therefore, additional discussion of noise impacts is warranted.

Construction Noise

The limitations of the Noise Ordinance (construction noise) are considered inadequate to mitigate the potential noise impacts associated with construction activities. The SEPA Policies at SMC 25.05.675 B allow the Director to limit the hours of construction to mitigate adverse noise impacts. Pursuant to this policy and because of the proximity of neighboring residential uses, the applicant will be required to limit external construction work for this project to non-holiday weekdays between 7:00 a.m. and 6:00 p.m. It is also recognized that there are quiet non-construction activities that can be done at any time such as, but not limited to, site security, surveillance, monitoring for weather protection, checking tarps, surveying, and walking on and around the site and structure. These types of activities are not considered construction and will not be limited by the conditions imposed on this Master Use Permit.

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 an "Evaluation of Compliance with Guidelines for Human Exposure to Radio Frequency Radiation for Clearwire LLC" dated September 11, 2009 for this proposed facility giving the calculations of radio frequency power density 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 Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore, pose no threat to public health. Warning signs at every point of access to the transmitting antenna shall be posted with information of the existence of radiofrequency radiation.

Summary

In conclusion, several impacts to 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 and to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

DECISION - SEPA

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).

CONDITIONS – SEPA

During Construction

1. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7 a.m. to 6 p.m. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9 a.m. and 6 p.m. once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noise generating activities, such as site security, monitoring, weather protection shall not be limited by this condition.

Construction activities outside the above-stated restrictions may be authorized by the Land Use Planner (Holly J. Godard 615-1254 or Holly.Godard@seattle.gov) when necessitated by unforeseen construction, safety, or street-use related situations. Requests for extended construction hours or weekend days must be submitted to the Land Use Planner at least three (3) days in advance of the requested dates in order to allow DPD to evaluate the request.

Signature: _____ (Signature on file) Date: May 20, 2010
Holly J. Godard, Land Use Planner

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