City of Seattle
Department of Design, Construction and Land Use
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Application Number: 3010640

Applicant Name: Clearwire

Address of Proposal: 6500 52nd Avenue S

SUMMARY OF PROPOSED ACTION

Land use application to allow a new minor communication utility (Clearwire) consisting of three (3) panel antennas proposed to be located on the synagogue's roof steeple. Project includes one new equipment cabinet located at on the rooftop of the existing synagogue.

The following approvals are required:

Administrative Conditional Use Review - To allow a minor communication utility in a single family zone. Section 23.57.010.C, Seattle Municipal Code ("SMC")

SEPA - Environmental Determination – SMC *Chapter 25.05*

SEPA DETERMINATION: [ ] EXEMPT [X] DNS [ ] EIS

[ ] DNS with conditions

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

BACKGROUND DATA

Site Location and Description

The subject property is an approximately 78,600 square foot corner lot located at the intersection of South Morgan Street and 52nd Avenue South, on the easterly-sloping hill down to Lake Washington. The Single Family 7200 (SF 7200) site is developed with a synagogue complex serving the Sephardic Bikur Holim, including extensive parking areas to the south and east. The synagogue has a tower 42 feet above grade with a menorah on top.

The surrounding properties are zoned SF 7200, and they are developed with predominantly single family uses. One block to the south, zoning changes to SF 5000, where single family residences also predominate.

Proposal Description

Clearwire is an Internet Service Provider, as opposed to a cellular phone service. Clearwire sites cannot transmit a signal outward to the same extent the phone carriers can and still achieve the coverage and service objectives. Hence, to adequately serve a catchment area delineated on propagation maps in the project file, Clearwire proposes to establish use for installation of a minor communication utility, with the equipment to be mounted on the sides of the existing menorah tower, and with an equipment cabinet to be located near the middle of the roof of the synagogue.

The highest portion of the proposed equipment on the tower is proposed to be 41 feet above existing grade. The roof of the synagogue proper tops out around 14 feet, so the equipment cabinet would be at about 20 feet above grade.

Public Comment

Approximately ten public comment letters were received by the Department, one merely asking for extension of the public comment period. Most expressed concern about proposal, including adverse impacts on property values, adverse impacts on neighborhood appearance, inconsistency with SMC Section 23.47.010.2.b (intrusive and out-of-character), inadequacy of screening, failure to integrate the proposed installations with building design, noise impacts, lack of need for the proposed equipment, and adverse health impacts.

ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS

Section 23.57.010.C of the Seattle Municipal Code (SMC) provides that a minor communication utility may be permitted in a Single Family zone as an Administrative Conditional Use subject to the requirements and conditioning considerations of this Section enumerated below.

1. *The proposal shall not be significantly detrimental to the residential character of surrounding 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 panels would be located on the existing tower feature, which is set back approximately 58 feet from the South Morgan Street property line and approximately 51 feet from the 52nd Avenue South property line. The rights-of-way themselves are approximately 40 feet wide. Four or five houses would look directly onto the site in the vicinity of the proposed developments, the main elements of which would appear integral to the existing synagogue, even though not run-of-the-mill. Only the screening elements at the top of the tower would even be noticeable to the average observer, who might wonder ever-so-briefly about the departure from typical tower form.

Director's Rule 8-2004 requires that an outside professional evaluate consistency of proposals of this type with technical provisions of applicable codes. This project was referred to the firm of Hatfield and Dawson Consulting Electrical Engineers, who provided a report signed by David Pinion, a registered professional engineer in the State of Washington. The review is available in the project file. The report concludes, "Based on information supplied to me by Clearwire

representative, and based on my training and experienced as an RF engineer, I believe that the proposed MCU would be the 'least intrusive facility' at the 'least intrusive location' consistent with 'effectively providing service.'

The noise analysis provided by Clearwire details the specifications for state-of-the-art equipment, which will have no discernible noise at the property line.

2. *The visual impacts that are addressed in section 23.57.016 shall be mitigated to the greatest extent practicable.*

   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.

   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 originally proposed screening was approximately twice the depth required to actually screen all but one piece of the proposed telecommunications equipment. The screening was re-designed to be about half as obtrusive in response to comments by the DPD, although this would result in small protrusion of one element (the microwave dish) of the installation. The revised design comports much better with the tower, and is the minimum necessary to effectively screen the installation. Project approval is conditioned upon maintaining the screening per plan.

   D. Facilities that are side-mounted on buildings shall be integrated with architectural elements such as window design or building decorative features, or screening 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. In general, antennas shall be as unobtrusive as practicable, including the use of non-reflective materials. Installations on the primary building façade shall be allowed only if roof, ground-mounted, or secondary façade mounted installation is technically unfeasible.

Same analysis and condition as for "C" above.

   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.

    Not Applicable.

4. *If the minor communication utility is proposed to exceed the zone height limit, the applicant shall demonstrate the following:*

    i. the requested height is the minimum necessary for the effective functioning of the minor communication utility, and

    ii. construction of a network of minor communication utilities that consists of a greater number of smaller less obtrusive utilities is not technically feasible.

The Hatfield and Dawson report cited above states, "It is unlikely that the height of the proposed Clearwire antennas could be reduced while still meeting the desired coverage objectives. This conclusion is based on RF propagation constraints and practical installation considerations."

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.*

    Not Applicable.

6. *If the proposed minor communication utility is for a personal wireless facility and it would be the third separate utility on the same lot, the applicant shall demonstrate that it meets the criteria contained in subsection 23.57.009A, except for minor communication utilities located on a freestanding water tower or similar facility.*

    Not Applicable.

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**.

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 initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by the applicant. 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.

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.

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 other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

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, pose no threat to public health.

Height, Bulk and Scale

A very small increase in building bulk will result from the installation and its screening. The impacts, if adverse, would not be substantial enough to warrant mitigation.

Greenhouse Gas

The applicant has disclosed that approximately 79 metric tons of carbon dioxide are likely to be emitted (MTCO2e) over lifespan. There is no basis for mitigating such emissions at this time.

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 - 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 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).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

For the Life of the Project

1. The owner(s) and/or responsible party(s) shall maintain screening per plan.

SEPA CONDITIONS

None.

Signature: (Signature on File) Date: September 16, 2010
Paul Janos, Land Use Planner
Department of Planning and Development

jj:PMJ
Janos/doc/decisions other than platting/3010640 telecom in SF on religious building Janos draft.doc