



City of Seattle

Gregory J. Nickels, Mayor

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: 3010682
Applicant Name: Tiffany McClurg for Clearwire
Address of Proposal: 3114 S Warsaw Street

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a minor communication utility (Clearwire LLC) consisting of three panel antennas and one microwave dish mounted on an existing 120 ft. City Light transmission tower. Equipment cabinet to be located on a slab at grade surrounded by a cedar fence.

The following approvals are required:

Administrative Conditional Use - To allow a minor communication utility on an existing public facility in a single-family zone.

SEPA - Environmental Determination Seattle Municipal Code (SMC) 25.05.

SEPA DETERMINATION: [] Exempt [] DNS [] MDNS [] EIS

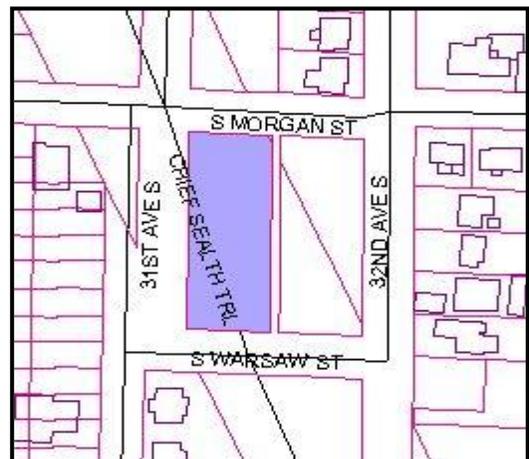
[X] DNS with conditions

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

BACKGROUND DATA

Site Location and Description

The subject site is located within the Seattle City Light transmission corridor on South Warsaw Street between 31st Avenue South and 32nd Avenue South on the west and South Ferdinand Street on the east in the Beacon Hill neighborhood. The development site is a 0.83 acre portion of the Seattle City Light transmission corridor which runs southeast to northwest and is located in a Single Family 5000 (SF 5000) zone. There



are two existing transmission towers rising approximately 120 feet above grade on this portion of the corridor. Because it is a City Light transmission corridor there is little in the way of vegetation. The Chief Sealth Trail runs along the corridor and passes close to the transmission towers.

The subject site is located within a densely populated SF 5000 zone that supports modestly sized one and two story homes. The New Holly development which is zoned Lowrise 3 is located directly to the west of the transmission corridor. The nearest single family use to the northeast of the proposal is approximately 75 feet away and 5 feet above base grade for the communication tower. Zoning changes to Single Family 5,000 (SF 5000) immediately to the west.

Proposal Description

The applicant proposes to install three panel antennas and one microwave dish at a height of 50 feet 10 inches above grade on an existing 120 foot tall Seattle City Light transmission tower. The project also includes installation of an accessory equipment cabinet to be located at ground level within a nine (9) foot by nine (9) foot area directly beneath the transmission tower which will be enclosed by a 6 foot wood fence and a five (5) foot landscape buffer. There are two existing transmission towers on this site; the proposal is located on the southernmost tower closest to South Warsaw Street.

Public Comment

The public comment period for the project ended on November 11, 2009. No comments were received from the public.

ANALYSIS AND CRITERIA - ADMINISTRATIVE CONDITIONAL USE

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 with the approval of an administrative conditional use permit when the establishment or expansion of a minor communication utility, except on lots zoned Single Family or Residential Small Lot and containing a single family use residence or no use subject to the requirements of this section enumerated below:

- 1. The proposal 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 proposal site is located on a 0.83 acre portion of the Seattle City Light transmission corridor in a Single Family 5000 zone, and the proposed antennae will be sited on the southernmost of two existing City Light transmission towers. The antennas will be painted to match the existing color of the tower to minimize visual impacts on surrounding uses. The accessory equipment cabinet will be located within a 9 by 9 fenced enclosure directly underneath the transmission tower. The fenced area will be surrounded by a 5 foot landscape buffer. Therefore, this proposal does not represent a commercial intrusion which would be significantly detrimental to the residential character of the surrounding residentially zoned area.

The noise level is estimated to be below the ambient level of residential uses within the Single Family 5000 zone. Noise data were reviewed by the Department's Noise Specialist and approved. Traffic impact is not anticipated other than one service visit per month. The proposal would be compatible with uses allowed in the zone, and since no housing or structure will be removed, the proposal will not result in displacement of residential dwelling units.

Given these existing conditions and additional camouflaging screening techniques of the antennas designed to blend with the skeletal tower frame, and the location of the associated equipment cabinets within a fenced and landscaped enclosure, the proposed minor communications utility would be minimally obtrusive and not detrimental to the residential streetscape character.

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

The applicant has designed the size, shape and materials of the proposed utility to minimize negative visual impacts on adjacent or nearby residential areas to the greatest extent possible. It is designed to visually fit in with the skeletal frame of the existing tower in order to visually screen and camouflage the antenna location. The proposed antennae would be painted to match the tower to create a visual coherence in form to blend in with the tower. The related equipment cabinets would be placed within a new fenced enclosure directly beneath the existing transmission tower and then surrounded by a 5 foot landscape buffer. These design features will be a condition of approval for this permit.

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 four hundred feet (400') 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; therefore, this provision is not applicable.

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 engineers have stated that because of the proposed systems' reliance on microcell technology to provide uninterrupted telephone service, this location and height are necessary. Several alternate sites were evaluated but lacked that coverage afforded with the proposed site.

The proposed antennas will be side mounted to an existing 120-foot transmission tower at approximately 50 feet 10 inches above grade. The proposed minor communication facility will extend approximately 21 feet above the base height limit for single family zones. However, due to the fact that the existing structure is already over the height limit additional increase in bulk, view blockage and shadow impacts are not anticipated to be visually impacting with the attachment of the proposed antennas.

Due to the operational characteristics of the facility proposed, a clear line of site from the antennas in the system throughout the intended coverage area is necessary to ensure the quality of the transmission of the communication system. The strict application of the height limit would preclude the applicant from providing communication services for the intended coverage area. The site was chosen because its elevation and location are uniquely suited to serve the adjoining residential and commercial areas. No

commercial properties were identified with sufficient elevation height to provide the coverage needed to meet the service objectives. The additional height above the zone development standard is the minimum required to attach the antennas to the 120-foot tall transmission tower and obtain sufficient coverage.

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 is not proposed for a new freestanding transmission tower. Therefore, this provision does not apply.

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 23.57.009 A. except for minor communication utilities located on freestanding water tower or similar facility.*

The proposed minor communication utility will not be the third utility service on the same lot. Therefore, this provision does not apply.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a Single family zone, which exceeds the height limit of the underlying zone, 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 proposal is located on a Single Family zoned site and is, therefore, not exempt from SEPA review.

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 dated October 12, 2009, and annotated by the Planner. 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 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 construction of the equipment room 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 7:00 a.m. and 6:00 p.m.

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.

Long-Term Impacts

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 (James Cornelius, P.E., November 30, 2009) 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.

Operational activities, primarily vehicular trips associated with the project and the projects’ energy consumption, are expected to 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.

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 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).

SEPA CONDITIONS

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 street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. 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 7:00 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 interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

CONDITIONS - ADMINISTRATIVE CONDITIONAL USE

2. The owner(s) and/or responsible party(s) shall ensure that the antennas and support structures are painted to blend with the color (non-glare) of the transmission tower.
3. The owner(s) and/or responsible party(s) shall ensure that the landscape buffer is planted and irrigated for a sufficient period of time that ensures survival of the plant material.

Signature: _____ (signature on file) Date: December 14, 2009
Marti Stave, Land Use Planner
Department of Planning and Development

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