



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: 3010731
Applicant Name: Steven Topp for Clearwire USA LLC
Address of Proposal: 3051 28th Ave W

SUMMARY OF PROPOSED ACTION

Land Use Application to install a new minor communication utility (Clearwire LLC) consisting of three panel antennas, and one microwave dish antenna inside the steeple of a religious facility (Magnolia Presbyterian Church). Equipment cabinet to be located under exterior stairs at grade.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility (equipment cabinet) in an Single Family SF 5000 zone, pursuant to Seattle Municipal Code (SMC) 23.57.010.C

SEPA - Environmental Determination pursuant to SMC 25.05

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 Location and Description

The proposal site is located on the southwest corner of 28th Ave W and W Dravus St in the Magnolia neighborhood. The subject property is within a Single Family Residential (SF5000) zone and surrounded by other SF 5000 zoned properties. The nearest zone change is two blocks to the east, where Lowrise Multi-family Residential zoning occurs (L-1).

An approximately two-story institution (Magnolia Presbyterian Church) is located on the site. Surrounding uses appear to be exclusively single family detached residences. An alley separates the institution from the residences to the west.



For illustrative purposes only

Proposal Description

The proposed project includes the installation of a new minor communication facility for Clearwire USA LLC. The facility will consist of three new panel antennas and one microwave dish mounted inside the spire pedestal of the existing building on site, and a mechanical equipment cabinet enclosed below the stairs on the south side of the building.

The antennas will be located inside of a shroud constructed to match the existing spire pedestal, approximately 39' from the east property line and approximately 62' from the south property line. The proposed panel antennas are each 48" tall x 13" wide x 3" deep. The proposed dish antenna has a diameter of 26". The proposed antennas would be mounted at a height with the top of the highest antennas at 47'7" above grade on the existing structure. All antennas will be shrouded with RF transparent material, constructed to look like the existing spire pedestal in respect to architectural appearance, materials, color, and texture.

The mechanical equipment will be located within the building approximately 6'6" from the south property line and 17' from the west property line. The mechanical equipment would be completely enclosed below the stairs at that location with sound dampening material and wood fencing at the exterior.

Public Comments

Public notice of this proposal was issued on November 19, 2009. DPD received five comment letters regarding the proposed work, including concerns of potential health impacts from telecommunication facilities, aesthetic related concerns, and the possibility of alternative site locations for the facility.

ADMINISTRATIVE CONDITIONAL USE

Seattle Municipal Code (SMC) 23.57.010.C provides that mechanical equipment associated with minor communication utilities may be permitted under an Administrative Conditional Use if the equipment meets criteria in SMC 23.57.010.C.2

- a. The project shall not be significantly detrimental to the residential character of the surrounding residentially zoned area, 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 Administrative Conditional Use applies only to the proposed mechanical equipment cabinet, to be located below the exterior stairs at the south side of the building. The proposed antennas are not subject to the Administrative Conditional Use criteria because they would be completely enclosed within the non-single family existing building and do not require removal of a dwelling unit in a residential zone, per SMC 23.57.009.B.

The zone at this site and surrounding areas is SF 5000. The site is located on two arterials (West Dravus Street and 28th Avenue West). The proposed location is a religious facility institution site.

The applicant has submitted technical studies indicating that the proposed location is necessary to effectively provide coverage. The submitted information has been reviewed by a third party reviewer and found to be technically accurate. The applicant has demonstrated that the proposal is the least intrusive facility in the least intrusive location to effectively provide service.

The proposed electrical equipment would be fully enclosed by the stairs, sound dampening material, and wood fencing. It would not be visible from the right of way or adjacent properties.

The applicant has provided an acoustical report (“Acoustical Report – Clearwire WA-SEA0477-C Magnolia Church, 3051 28th Avenue W, Seattle WA 98199” by SSA dated October 12, 2009). This report includes conditions to mitigate potential sound impacts at the adjacent property lines. The applicant has revised the proposed plans to include this mitigation. With the proposed sound mitigation, the proposal will not result in detrimental noise impacts to the building residences or beyond the property lines.

The proposal doesn’t include the displacement of any residences, and will generate approximately 1 vehicle trip per month. The proposal is not substantially detrimental to the residential character of the nearby residentially zoned areas. The proposal complies with this criterion.

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

The proposed structures would be screened and visually mitigated as described in the response to criteria #1. The proposal complies with this criterion.

- c. *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:*
 - i. *The antenna is at least one hundred feet (100') from a MIO boundary, and*
 - ii. *The antenna is substantially screened from the surrounding neighborhood's view.*

The proposed site is not located within a Major Institution Overlay District. This criterion is therefore not applicable.

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

The proposed minor communication utility mechanical equipment would not exceed the zone height limit. The proposal complies with this criterion.

- e. *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 mechanical equipment will not be a new freestanding transmission tower. This criterion is therefore not applicable.

- f. *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 a freestanding water tower or similar facility.*

The proposed minor communication utility mechanical equipment would be the first separate utility on this lot. The proposal complies with this criterion.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist (October 12, 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.

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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 given the proximity of residential

uses. 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 excavation, foundation, and 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 October 12, 2009 for this proposed facility giving the calculations of radio frequency power density expected from this proposal. The applicant has also submitted a "Personal Wireless Service Facility Applicant's Statement of FCC Compliance" 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.

- 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 - ADMINISTRATIVE CONDITIONAL USE

For the Life of the Project

1. Screening and sound barriers for the proposed minor communication utility shall reflect the architectural design, materials, shapes and colors as shown in the MUP plan set. Any material changes shall be approved by the project planner.

CONDITIONS – SEPA

During Construction

2. 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 am to 6 pm. Interior work that involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9 am and 6 pm 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 (Shelley Bolser 206-733-9067 or shelley.bolser@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) business days in advance of the requested dates in order to allow DPD to evaluate the request.

Signature: _____ (signature on file) Date: April 12, 2010
Shelley Bolser, AICP, LEED AP, Senior Land Use Planner
Department of Planning and Development

SB:lc