



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: 3010950
Applicant Name: Ron Meckler for Clearwire USA, LLC
Address of Proposal: 510 6th Avenue South

SUMMARY OF PROPOSED ACTION

Land Use Application to install a new minor communication utility (Clearwire) consisting of three panel antennas and one microwave dish to be located on the rooftop of an existing building. Project also includes one new equipment cabinet located on the rooftop.

The following approvals are required:

Administrative Conditional Use Review - to allow a minor communication utility to exceed the zone height limit, pursuant to Seattle Municipal Code (SMC) 23.57.014.

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 in the International District, in an International District Mixed (IDM) zone. All surrounding properties are located in the same neighborhood and zone. The site is relatively flat, with area topography sloping down to the west.

An eight-story mixed-use residential and commercial building is located on the site. Nearby uses include a wide mix of commercial and residential types.

Proposal Description

The proposed project includes the installation of a new minor communication facility for Clearwire. The facility will consist of three new panel antennas, one microwave dish, and one equipment cabinet mounted on the rooftop of the existing building near the south penthouse wall. A faux penthouse would be constructed around the antennas and would be located approximately eight feet (8') above the roof. The proposed panel antennas are each 48" tall x 13" wide x 3" deep. The proposed microwave dish is 24" in diameter. The proposed mechanical equipment would be approximately 2'2" wide and long, and 6'9" tall. The antennas would be mounted on the mechanical equipment inside the proposed faux penthouse.

Public Comments

Public notice of this proposal was issued on December 10, 2009. DPD received three comment letters regarding the proposed work, mostly with concerns of potential health impacts from telecommunication facilities.

ADMINISTRATIVE CONDITIONAL USE

Seattle Municipal Code (SMC) 23.57.014 provides that a minor communication utility may be permitted in a Downtown zone (including International District Mixed zones as described in SMC 23.57.005.C.1) as an Administrative Conditional Use, when it meets the following criteria.

Communication utilities and accessory communication devices for which a Certificate of Approval may be required in IDR, PSM, IDM, PMM (see SMC Chapter 25.24) zones, the International Special Review District, the Pioneer Square Preservation District, and the Ballard Avenue (SMC Chapter 25.16), Columbia City (SMC Chapter 25.20) and Harvard-Belmont (SMC Chapter 25.22) Landmark Districts shall be sited in a manner that minimizes visibility from public streets and parks and may be permitted as follows:

The proposed communication utility is located in an IDM zone and will be required to obtain a Certificate of Approval.

- A. *Minor communication utilities and accessory communication devices may be permitted subject to the use provisions and development standards of the underlying zone and this chapter, with the following additional height allowance: communication utilities and devices may extend up to four (4) feet above a roof of the structure, regardless of zone height limit.*

The proposed minor communication utility would extend up to 8 feet above the roof of the structure, and is therefore does not meet this criterion. An Administrative Conditional Use approval is required, as described in SMC 23.57.014.B below.

B. An Administrative Conditional Use approval shall be required for communication utilities and accessory devices regulated per Section 23.57.002, and which do not meet the requirements of subsection A above. Any action under this section shall be subject to the Pioneer Square Preservation District and the International Special Review District review and approval and the Department of Neighborhoods Director; in the Ballard Avenue Landmark District by the Ballard Avenue Landmark District Board and the Department of Neighborhoods Director; in the Pike Place Market Historical District by the Pike Place Market Historical Commission, and in the Columbia City Landmark District and the Harvard-Belmont Landmark District by the Landmarks Preservation Board, according to the following criteria:

- 1. Location on rooftops is preferred, set back toward the center of the roof as far as possible. If a rooftop location is not feasible, communication utilities and accessory communication devices may be mounted on secondary building facades. Siting on primary building facades may be permitted only if the applicant shows it is impossible to site the devices on the roof or secondary facade. Determination of primary and secondary building facades will be made by the appropriate board or commission.*

The proposed minor communication utility would be located on the rooftop, near the center of the south parapet wall. The south wall is at a shared property line and is not a street facing wall. The applicant has provided a letter (dated July 19, 2010 from Cesar Tansengco, Radio Frequency Engineer) indicating that a location closer to the center of the roof or grouped with other rooftop mechanical equipment is not technically feasible.

- 2. Communication utilities and accessory communication devices shall be installed in a manner that does not hide, damage or obscure architectural elements of the building or structure.*

The proposed minor communication utility would be located on the rooftop, near the center of the south parapet wall. The proposed location would add a faux penthouse but this addition does not appear to hide, damage, or obscure architectural elements of the building or structure.

- 3. Visibility shall be further minimized by painting, screening, or other appropriate means, whichever is less obtrusive. Creation of false architectural features to obscure the device is discouraged.*

The proposed minor communication utility shroud (faux penthouse) would be textured and painted to match the existing penthouse and façade of the building.

DECISION - ADMINISTRATIVE CONDITIONAL USE

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

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist (April 7, 2010), 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" signed and stamped by T. Lauriston Hardin, Professional Engineer, 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.

- 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 - NONE

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 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) days in advance of the requested dates in order to allow DPD to evaluate the request.

Signature: _____ (signature on file) Date: September 2, 2010
Shelley Bolser, AICP, LEED AP, Land Use Planner
Department of Planning and Development

SB:bg