City of Seattle

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: 3012126

Applicant Name: Sunny Ausink, Pacific Telecom Services for AT&T Mobility

Address of Proposal: 412 Bellevue Avenue East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow an expansion of a minor communication utility (AT&T) consisting of three panel antennas on the rooftop of an existing multifamily structure.

The following approvals are required:

Administrative Conditional Use – to expand a minor communication utility in an MR zone (SMC 23.57.011B).

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

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

BACKGROUND DATA

Site Location: The site is located on the west side of Bellevue Avenue East, north of the intersection of Bellevue Avenue East and East Harrison Street.

Zoning: The parcel is located within a Midrise (MR) zone.

Parcel Size: 7,189 square feet.

Existing Use: Residential.

Public Comment: The public comment period for this project ended April 27, 2011. No comment letters were received.

ADMINISTRATIVE CONDITIONAL USE - ANALYSIS

The establishment or expansion of a minor communication utility regulated pursuant to Section 23.57.002 may be permitted as an Administrative Conditional Use when they meet the development standards of subsection C and the following criteria, as applicable:

1. *The project 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 applicant has provided information indicating the proposed facility expansion at this location is necessary in order to effectively provide service. The proposal will upgrade the current facility with the latest technology, Long Term Evolution (LTE). The expanded facility is intended to improve service and does not expand the service area. The proposal is located within a residential zone (MR). The nearest least intrusive location is a Neighborhood Commercial zone which is located outside of the preferred service area. According to the Applicant there are no nonresidential structures, water towers or City Light transmission towers within the preferred service area that a new facility could be constructed. In consideration of the existing facility located at this location of which three antennae will be added, DPD concludes that the expansion of this utility may be permitted and will not be intrusive or result in substantially detrimental impacts to the residential character of nearby residentially zones areas.

Mechanical equipment will be located within the existing structure. An acoustic study was provided indicting that the proposal will meet the noise ordinance. Traffic will be limited to monthly maintenance of the facility and no residential units will be removed as part of this proposal. Therefore DPD has determined that noise and traffic generated by the expansion of the facility will not be intrusive or result in substantially detrimental impacts on the nearby residentially zoned area.

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

The new antennae will be integrated into the existing minor telecommunication facility located on the rooftop. An additional ‘canister’ will be added to the two existing canisters to screen the additional antennae.

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 (100) feet from a MIO boundary, and b. The antenna is substantially screened from the surrounding neighborhood's view.*

The applicant is not a Major Institution; therefore this criterion 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 proposal does not exceed permitted height limit of minor communication utilities in an MR zone, therefore this criterion is not applicable.

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 proposal does not include a new freestanding transmission tower; therefore this criterion is not applicable.

ADMINISTRATIVE CONDITIONAL USE - DECISION

The applicant has demonstrated that the proposed facility is the least intrusive facility in the least intrusive location. Therefore, the Administrative Conditional Use Permit is **GRANTED**.

ADMINISTRATIVE CONDITIONAL USE - CONDITIONS

None.

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 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 and dated March 28, 2011. The information in the checklist, submitted application materials, including the NIER report, Statement of FCC Compliance, Acoustic Report and the experience of the lead agency with review of similar projects forms the basis for this analysis and decision.

Short-term Impacts

Construction activities including construction worker commutes, 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.

Construction and Noise Impacts

The initial installation of the antennas and the equipment may include loud equipment and activities. The Noise Ordinance will provide sufficient mitigation for identified impacts.

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. 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, does not warrant any conditioning to mitigate for adverse impacts.

The City is not aware of interference complaints from the operation of other installations from persons operating electronic equipment, including sensitive medical devices (e.g. - pacemakers). The Land Use Code (SMC 23.57.012C2) requires that warning signs be posted at every point of access to the antennas noting the presence of electromagnetic radiation. In the event that any interference was to result from this proposal in nearby homes and businesses or in clinical medical applications, the FCC has authority to require the facility to cease operation until the issue is resolved.

The information discussed above, review of literature regarding these facilities, and the experience of the Departments of Planning and Development and Public Health with the review of similar projects form the basis for this analysis and decision. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted.

Noise

Equipment will be located within the existing structure. An acoustic study was provided indicting that the proposal will meet the noise ordinance. No adverse noise impacts during operation are expected and the Noise Ordinance will adequately regulate any noise impacts associated with the proposal.

Summary

Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to specific environmental policies or the SEPA Overview Policy (SMC 25.05.665).

DECISION

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).

SEPA CONDITIONS

None.

Signature: (signature on file) Date: March 19, 2012
Stephanie Haines, Senior Land Use Planner
Department of Planning and Development

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