



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: 3012609
Contact Person: James Freudenberger
Address of Proposal: 2713 Boylston Avenue East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow the expansion of a minor communication utility (AT&T) by adding two panel antennas on the rooftop and ancillary equipment located at ground level of an existing multifamily structure.

The following approvals are required:

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

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code

SEPA DETERMINATION

EXEMPT DNS MDNS EIS

DNS with conditions

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

BACKGROUND DATA

Site and Vicinity Description

The subject site, located mid-block on Boylston Avenue East between East Hamlin Street on the north and East Edgar Street on the south, faces Interstate 5. The roof of the existing multifamily building already has telecommunication equipment by several utilities including AT&T Mobility. The subject site lies within a Lowrise Three (LR3) zone. The less intensive Lowrise

Two (LR2) zone lies directly to the west across the alley bordering the subject property. To the east of the freeway, the area also has a less intensive zone, Single Family 5000. Zoning for commercial uses occurs to the west along the Eastlake Avenue corridor, topographically at a lower elevation. Existing development in the immediate area consists of lowrise, multi-family buildings and single family structures. Boylston St is classified as an arterial.

Proposal Description

AT&T proposes to install a minor communication utility consisting of two new panel antennas, on the rooftop and ancillary equipment located at ground level of an existing multifamily structure.

Public Comment

The public comment period ended on January 4, 2012. DPD received a request to extend the comment period.

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. All supporting documentation referenced within this decision can be found in MUP electronic file no. 3012609.

- 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.*

Director's Rule 8- 2004 clarifies terms and provisions regarding minor communication facilities in all zones which are directly applicable in this instance. The terms "least intrusive location", "least intrusive facility" and "effectively providing service" are defined as the following:

"Effectively providing service" means the level of service preferred by the applicant. The preferred level of service will not be evaluated by the Director, but will instead be used as a comparison in the evaluation of potential alternate locations for the proposed minor communication utility.

"Least intrusive location" means that, except deviations as allowed by the Director, the location of the proposed minor communication utility must comply with the following order of preference. Industrial zones are the least intrusive location, and Single Family and Residential Small Lot zones (non-arterial) are the most intrusive locations:

- a. Industrial zones*

- b. Downtown zones*
- c. Commercial zones*
- d. Neighborhood Commercial zones*
- e. Multifamily zones (arterial)*
- f. Multifamily zones (non-arterial)*
- g. Single Family and Residential Small Lot zones (arterial)*
- h. Single Family and Residential Small Lot zones (non-arterial)*

The Director may allow a deviation from the order of preference, provided that the Director finds that such a deviation would result in a less intrusive location than would otherwise be provided under strict adherence to the order of preference.

“Least intrusive facility” means that the proposed minor communication utility and its associated equipment, including but not limited to additions to existing structures, new structures, poles, wireless antennae and conduit, must be designed and placed in a manner that will result in the least amount of visual and neighborhood character impacts. Potential impacts may include but will not be limited to aesthetics, height and bulk impacts, and commercial intrusion. Except deviations as allowed by the Director, the proposed minor communication utility must comply the following order of preference:

- a. City Light transmission tower*
- b. Water tower*
- c. Rooftop or facade of a nonresidential structure*
- d. Rooftop or façade of a residential structure*
- e. Monopole on a nonresidential lot*
- f. Utility pole*

The Director may allow a deviation from the order of preference, including the allowance of other placement locations not contained in the order of preference, provided that the Director finds that such a deviation would result in a less intrusive facility than would otherwise be provided under strict adherence to the order of preference.

The proposal is located within a Lowrise Three (LR3) on an arterial street, the fourth least intrusive location as defined in the Director’s Rule 8-2004. A less intrusive zone, Neighborhood Commercial, lies along the Eastlake Ave. corridor at a considerably lower elevation and further from Interstate 5 which lies immediately to the east of Boylston and the project site. The proposal will be located on a rooftop of a multi-family residential structure, the fourth least intrusive facility. Only single family and other lowrise multi-family structure lie in the immediate area. The proposed facility will be screened. A consultant acoustical study indicates that the predicted sound pressure level from the proposed equipment at the nearest receiving property is 44 dB(A), which meets the 45 dB(A) nighttime noise code limit.

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.

As proposed, the minor communications utility will not constitute a commercial intrusion that will be substantially detrimental to the residential character of the surrounding neighborhood.

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. AT&T will be adding two panel antennas. The antennas will be located behind a screen to match the existing structure. As proposed, the visual impacts related to the minor communications utility have been mitigated to the greatest extent practicable.

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 proposed antenna will not exceed the 15 foot height limit from the rooftop. The proposed antennas will match the height of the existing AT&T antennas.

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 to be 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 utility provider already has a presence on the subject structure.

DECISION - ADMINISTRATIVE CONDITIONAL USE PERMIT

This application to install a minor communication utility in a lowrise zone, which exceeds the height limit of the underlying zone, is **APPROVED**.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist prepared by the applicant on March 29, 2011, and supplemental information in the project file submitted by the applicant. The information in the checklist, supplemental information, 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) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and 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 or circumstances (SMC 25.05.665 D), mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

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. 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.

Greenhouse Gas

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 due to the relatively minor contribution of greenhouse gas emissions from this project.

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 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.

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 due to the relatively minor contribution of greenhouse gas emissions from this project.

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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- 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 2c.

CONDITION - SEPA

During Construction

1. The following conditions to be enforced during construction shall be posted at the site in a location visible and accessible to the public and to construction personnel from the street right-of-way. The condition shall be printed legibly on placards available from DPD, shall be laminated with clear plastic or other weatherproofing material, and shall remain in place for the duration of the construction.

The applicant shall limit external construction work for this project to non-holiday weekdays between 7:00 a.m. and 6:00 p.m.

Signature: _____ (Signature on File)
Bruce P. Rips, Senior Land Use Planner
Department of Planning & Development

Date: February 2, 2012