



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: 3013302
Applicant Name: Michael Aippersbach for Community Transit
Address of Proposal: 9417 Roosevelt Way NE

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a minor communication utility (Community Transit) consisting of two whip antennas and a microwave dish antenna on an existing monopole. Supporting equipment and equipment shelter building to be installed at ground level.

The following approvals are required:

Administrative Conditional Use Review - to allow communication antennas and equipment in a residential zone (SMC) 23.57.011B.

Variance – to allow structures and equipment in the required 20 foot landscaped setback of an existing freestanding minor communication tower (SMC) 23.57.009C.

SEPA - Environmental Determination pursuant to SMC 25.05.

SEPA DETERMINATION: [] Exempt [X] 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

Zoning for the site is Multi-Family Residential Lowrise 2 (LR2) which is the zone for properties adjacent to Roosevelt Way NE on both sides of the street for several blocks. The properties to the east across Roosevelt way are also in a Residential Commercial (RC) overlay zone.

Surrounding properties that are not adjacent to Roosevelt Way NE generally are zoned Single Family 5000 (SF5000).

Public Comment

The public comment period for this project ended April 3, 2013. One comment letter was received.

ADMINISTRATIVE CONDITIONAL USE

Seattle Municipal Code (SMC) 23.57.011B provides that a minor communication utility, as regulated pursuant to SMC 23.57.002, may be permitted in a Lowrise zone as an Administrative Conditional Use when it meets the development standards of SMC 23.57.011C 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 proposed antennas for Community Transit will be installed on the existing telecommunications tower which is in an LR2 zone. There will be no operational noise impacts from the proposed antennas. There will be minimal noise generated by cooling fans for the associated electrical equipment however any adverse noise impact will be mitigated by the location of fans behind a noise mitigation wall. Furthermore, a proposed emergency generator is expected to create a higher noise level when it operates. The generator is intended to operate only during emergency power outages and during periodic equipment maintenance testing. A substantial sound wall is proposed to be constructed to mitigate the noise levels caused by the generator at the adjacent residential property lines. No parking spaces will be removed. There will be no operational traffic impacts other than the arrival and departure of occasional maintenance vehicles and there will be no displacement of residential units.

The design, height, and small diameter of the proposed whip antennas, in conjunction with their low visibility from surrounding properties, will render these antennas to be visually unobtrusive. The proposed dish antenna is the minimum diameter that will effectively transmit and receive the signal to the next tower. It will be painted a color that is intended to minimize its visibility. Supporting equipment on the ground will be installed inside a new 144 sq. ft. equipment shelter building. The emergency generator will be located behind a screen wall. A dilapidated wood fence along the west property line will be replaced with a new 6 foot wood fence and a row of evergreen confers will be planted just east of the west property line and along the westerly segment of the north property line.

The existing site is developed as a minor communication utility with a 150 foot tall monopole which has numerous existing panel and dish antennas on it. The site also has an existing one story equipment building, an unscreened emergency generator and several

outdoor equipment cabinets. The proposal to add antennas to the monopole, an equipment shelter building and emergency generator at the ground level is not anticipated to cause a change to the general character of the site and will not be substantially detrimental to the residential character of the neighborhood. For this facility to effectively function, it must have antennas located at a high enough elevation for the antennas to provide coverage over a fairly large territory. There were few other sites that could meet the elevation criteria. This was the only identified site that met all of the selection criteria for effective functioning of the utility. Efforts to minimize the visual and audible impacts of the proposal combined with lack of an alternative site render this proposal the least intrusive facility in the least intrusive location.

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

Telecommunications equipment will be concealed inside a new equipment shelter building. The emergency generator will be placed behind a screen wall. The antennas will be mounted on an existing telecommunications monopole. The dish antenna will be mounted as close to the pole as practicable and will be of a color chosen to minimize the visual appearance of the antenna. The whip antennas, being omni-directional, need to be off-set from the monopole sufficient distance to minimize the radio-frequency distortion effect of the monopole. The proposed offset from the pole is the minimum amount necessary for the effective functioning of the utility. A new solid wood fence will be built along the west property line. Furthermore, a row of evergreen conifers will be planted near adjacent residential property lines to grow into a future screening row of trees. Therefore, the proposal complies with this criterion.

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 feet (100') 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 District. Therefore, this criterion does not apply to the subject proposal.

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 requested antenna height is the minimum necessary for the effective functioning of the minor communication utility. The antennas are to be located well below the top of the existing minor communications tower. This proposal, therefore, complies with this criterion.

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 will not be a new freestanding transmission tower. The location of the proposed antennas on this existing tower precludes the need to construct a new freestanding transmission tower on another site. Therefore, this criterion does not apply to the subject proposal.

SUMMARY

The proposed project is consistent with the Administrative Conditional Use criteria of the City of Seattle Municipal Code as it applies to wireless communication utilities. The facility is minor in nature and will not be detrimental to the surrounding area while providing needed and beneficial wireless communications service for Community Transit.

DECISION - ADMINISTRATIVE CONDITIONAL USE

The Conditional Use application is **GRANTED**.

VARIANCE (SMC 23.40.020C)

Minor communication utilities, which locate antennas on existing minor telecommunication towers, are subject to specific development standards which include setback of all antennas and supporting equipment of 20 feet from all property lines. The setback area is also required to meet specific landscaping and screening requirements.

Variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist:

- 1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The applicant needed to find a site that could provide radio and data communication coverage for public transit equipment they operate in the north end of Seattle and the nearby area. The selected site also needs to be able to connect via microwave transmission to towers that provide similar coverage in other sectors of the Community Transit service area in King and Snohomish Counties. This site was selected since it meets several criteria, including that it had an existing structure on it that had the capacity to handle the Community Transit antennas and equipment.

The current development standards for minor communication towers have the same setback standards as that of major communication towers, which includes a setback requirement of 20 feet from front and side property lines that also applies to equipment on the ground. Since the lot is only 45 feet wide, the buildable area for this use is only a 5 foot wide strip of land down the center of the site, much of it already occupied by an existing tower, building and other equipment.

The proposed equipment, with the exception of the emergency generator, is proposed to be concealed within an 8 ft. x 18 ft. (144 sq. ft.) equipment shelter building which will be slightly smaller but of similar proportions and shape as a typical one car garage. Other properties in the same zone and vicinity can have one car garages and sheds of similar size only 5 feet from their side property line yet ground level equipment for a minor communication utility, whether in a shed or not, must have a 20 foot setback of the side property line if it supports antennas on a tower.

The proposal includes a 5 foot setback from the north side property line and over 12 feet from the south side property line. Other sites of similar size in the same zone or vicinity generally have a 5 foot setback from side property lines whether for accessory structures similar to the proposed equipment shelter building or for principal use structures. As such, the 20 foot setback requirement would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.

2. *The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

The relief sought is to utilize available portions of the site to install additional equipment needed to support the antennas that are permitted outright to be added to the existing free-standing minor telecommunications tower. Setbacks will be provided that are similar to the setback requirements of other properties in the same vicinity which are in the same zone. The requested variance relief does not constitute a grant of special privilege.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

The granting of the variance allows minor additions of antennas and equipment to an existing minor telecommunications facility which will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and*

Without variance relief, it might be possible for Community Transit to co-locate on this existing facility but it would require extreme engineering difficulties as all equipment would either need to be constructed in a five foot strip of land or possibly be constructed underground. Either scenario may even necessitate temporarily taking off-line other existing telecommunications providers at the site, if that were even possible. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The proposal will not be detrimental to the residential character of the area and is the least intrusive facility in the least intrusive location. The Land Use Code allows outright the addition of antennas, which meet standards, to freestanding minor communication utility towers. The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.

DECISION - VARIANCE

The requested variance to allow structures and equipment with a 20 foot landscaped side setback is **GRANTED**.

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 initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated January 23, 2013. 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.

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.

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; 6) increased greenhouse gas emission due to construction-related activities, and 7) consumption of renewable and non-renewable resources. Although not significant, the impacts are adverse. City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary and is not warranted.

Greenhouse gas emissions

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

Since the proposal is limited to the installation of radio antennas and supporting equipment, the long term impacts anticipated will be from radio frequency radiation, noise from supporting equipment, and impacts related to personnel during maintenance visits.

Environmental Health

The applicant has submitted an “*Applicants Statement of FCC Compliance*” for this proposed *Public Safety Wireless Communications Facility* giving the calculations of radiofrequency power density on the tower and ground levels expected from this proposal. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The City’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.

The Federal Communications Commission (FCC) has established radiofrequency radiation exposure guidelines. In addition, the FCC has also established lower thresholds below which Environmental Assessments are not required. The maximum ground level power density of the proposed facility will operate at less than 1% of the FCC allowable level and is therefore exempt from the FCC requirement for Environmental Assessment. As such, no mitigation measures are warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

Noise

Noise control is provided by SMC 25.08. The proposed cooling fans to be mounted in the wall of the equipment shelter building will have a sound wall constructed to reduce sound levels to meet the lower nighttime noise threshold of the Ordinance of 45 dBA at the residential zone property line. The proposed emergency back-up generator, with the proposed 8 foot screen wall, is exempted from the noise control ordinance during emergency events per SMC 25.08.530 A4 and is predicted to not exceed the allowable 55 dBA at the property line during daytime maintenance testing.

Greenhouse gas emissions

Operational activities, primarily vehicular trips associated with the project, periodic testing of the emergency generator, 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.

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.

- 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).

ADMINISTRATIVE CONDITIONAL USE CONDITIONS

None.

SEPA CONDITIONS

None.

VARIANCE CONDITIONS

None.

Signature: _____ (signature on file) Date: July 15, 2013
Jerry Suder, Land Use Planner
Department of Planning and Development

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