



City of Seattle

Gregory J. Nickels, Mayor

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: 3003554
Applicant Name: Fu Chang for New Cingular Wireless
Address of Proposal: 5705 Phinney Avenue North

SUMMARY OF PROPOSED ACTION

Land Use Permit to replace three existing panel antennas with three new panel antennas for a minor communication utility (Cingular Wireless). The project includes six new equipment cabinets to be located in an existing basement equipment area.

The following approvals are required:

Administrative Conditional Use Permit – to allow a minor communication utility to exceed the height limit in a Lowrise 3 (L-3) zone and to increase the number of equipment cabinets from 2 to 6 (remove 1, add 6) – Section 23.57.011B Seattle Municipal Code (SMC).

SEPA – Environmental Determination – (Chapter 25.05 SMC)

SEPA DETERMINATION: Exempt DNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site is zoned Lowrise 3 (L-3) and is a corner lot located on the northwest corner of North 57th Street and Phinney Avenue North. The site is developed with a four story apartment building. There are six panel antennas on the rooftop of the apartment building.

Area Development

Development in the vicinity consists of a mixture of multifamily uses in the Lowrise 3 zone along Phinney Avenue North. Single family residences predominate in the large Single Family 5000 (SF 5000) zones on both sides of Phinney Avenue North. Woodland Park Zoo is located across the street to the east of the site. The adjacent zoning to the north is L-3 and to the west it is SF 5000. The zoning is Neighborhood Commercial 2 40' (NC2 40') north of North 58th Street.

Description of Proposal

The applicants propose to replace three existing panel antennas with three new panel antennas for a minor communication utility (Cingular Wireless). The project includes six new equipment cabinets to be located in an existing basement equipment area. One existing equipment cabinet will be removed. This will be a modification to an existing radio telecommunications facility. Three existing panel antennas will be removed and replaced with three new antennas. The existing rooftop antennas are shrouded by artificial brick chimneys rising eight feet higher than the rooftop, a height that achieves coverage objectives established by the applicant.

The proposed rooftop minor communication utility installation and screening is proposed at fifty-six feet one inch (56'1") above existing grade. The height limit for the L-3 zone is thirty (30) feet above grade, with an exception for minor communication utilities and accessory communication devices permitted to extend a maximum additional height of fifteen (15) feet. The existing rooftop antennas were established with an administrative conditional use permit. Replacement of the antennas above the height limit and the installation of six additional equipment cabinets require an administrative conditional use permit. The replacement antennas must conform to the screening condition imposed on the original permit to design screening which has the appearance of chimneys.

Public Comment

No comment letters were received during the comment period which ended April 5, 2006.

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.*

According to the plans, the antennas will conform to codified development standards, visual impacts and design standards of SMC 23.57.011 and 23.57.016. The antennas will be fully screened from any viewed direction for their full height by the existing screening which uses materials consistent with the current exterior of the building. The screens are designed to mimic the look of brick chimneys, thus providing a facility that is the least intrusive design for this residentially zoned neighborhood.

Some views from neighboring residential structures have been altered by the presence of the existing facility. The applicant has provided photographic evidence suggesting that the visual intrusions are minor.

The proposed minor communication utility is not likely to be substantially detrimental to the residential character of the residentially zoned area, and the location of the panel antennas are the least visually intrusive locations consistent with effectively providing service and minimizing impacts to the existing neighborhood. Neighbors and tenants of the host building will not likely know the facility exists, in terms of its land use, once the antennas are replaced, and cell phone coverage in the area will be improved, which will be beneficial to users in the neighborhood.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise, the walls of the equipment room will shield any noise associated with the equipment, and no residential dwelling units would be displaced.

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

According to the plans submitted, the proposed height of the antennas will be fully screened from view and will be as inconspicuous as possible, within the parameters of the SMC, while remaining functionally effective. 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 proposed height of the minor communication utility is eleven feet one inch (11'1") above the rooftop, with a total height of fifty-six feet one inch (56'1") above existing grade. Documentation within the Master Use Permit file, provided by the applicant, demonstrates the requested height is the minimum necessary for the effective functioning of the minor communication utility; therefore, the proposal 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. 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 to the area.

The proposed project will not require the expansion of public facilities and services for its construction, operation and maintenance. Once installation of the facility has been completed, approximately one visit per month would occur for routine maintenance. No other traffic would be associated with the project.

DECISION – ADMINISTRATIVE CONDITIONAL USE

The application is **CONDITIONALLY APPROVED**.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated February 14, 2006. The information in the checklist and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.554D) 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.

Short-Term Impacts

The following temporary construction-related impacts are expected: 1) decreased air quality due to the increase 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 25.05.675B 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 7:30 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.

The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation or discussion.

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 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.

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 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.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 AND SEPA CONDITIONS

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street about the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards

will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.
2. Screening shall be integrated with the architectural design, materials, shapes and colors that are consistent with the current exterior of the building. The screens shall be designed to mimic the look of brick chimneys.

Signature: (signature on file)
Malli Anderson, Land Use Planner
Department of Planning and Development
Land Use Services

Date: July 13, 2006