



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:** 3003626  
**Applicant Name:** Pete James for Clearwire, LLC  
**Address of Proposal:** 4544 7<sup>th</sup> Avenue Northeast

**SUMMARY OF PROPOSED ACTION**

Land Use Permit to allow expansion of a minor communication utility consisting of three panel antennas and one microwave dish (Clearwire). Project includes one new equipment cabinet all to be located on rooftop.

The following approvals are required:

**Administrative Conditional Use Review** - to allow a minor communication utility in a Midrise Multi-Family Residential Zone pursuant to Seattle Municipal Code (SMC) 23.57.011B.

**SEPA - Environmental Determination** pursuant to Seattle Municipal Code (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 INFORMATION**

Site and Vicinity Description

The proposal site is situated on the east side of 7<sup>th</sup> Avenue Northeast between Northeast 47<sup>th</sup> Street and Northeast 45<sup>th</sup> Street in the University District of North Seattle. The property contains a total area of approximately 24,602 square feet. The parcel and existing building are located within a Midrise (MR) zone. Development on the site consists of a ten (10) story apartment complex owned by the Seattle Housing Authority. The building is 92'-1" in height measured from existing grade to the roof parapet plus an additional 14'-4" for the existing mechanical

penthouse; with an overall height of 106'-5" exceeding the 60' MR zone height limit allowed for structures in that zone. However, the building is a legally non-conforming structure as it was built before this zoning designation was in effect.

Currently, Sprint Spectrum and Cingular Wireless have minor communication utilities on this site. A Master Use Permit issued by DPD (743372) allowed Cingular Wireless to install three (3) rooftop antennas and an equipment cabinet. DPD also issued Master Use Permits (689385 & 689772) to establish a minor communication utility for Sprint Spectrum and install twelve (12) panel antennas on an existing mechanical penthouse. Currently Sprint has only five antennas mounted.

### Surrounding Zoning and Uses

South: Multi-Family/Commercial structures, MR and NC3-65 zones;  
North: Multi-Family Residential, MR zone;  
East: Multi-Family Residential, MR zone;  
West: Highway I-5, MR zone

### Proposal Description

The proposed project consists of the installation of a minor communication facility for Clearwire- a wireless broadband internet service provider. The facility will consist of the following: three (3) sector antenna arrays ("1", "2" and "3") with one (1) three foot (3') antenna per sector projecting a maximum 14' above the roof of the existing residential building; and one (1) microwave dish measured 2'-1" projecting 13' above the residential rooftop. Each sector antenna arrays ("1", "2" and "3") will be enclosed within fiberglass shrouds designed to match existing elevator penthouse elements and the building's wall facade. The fiberglass shroud for the sector "1" antenna will be attached to the building's stairwell penthouse northern wall façade projecting 11' above the residential rooftop. Sectors "2" and "3" antennas will be attached to the elevator penthouse southern façade wall. The microwave dish will be attached to the western façade wall of the elevator penthouse. All associated cabling will be located in cable trays affixed atop the roof and routed to an associated equipment cabinet surrounded with a screened enclosure mounted on the building's rooftop. The antennas, cabling tray and fiberglass shrouds will be painted and constructed to match the appearance of the building.

### Public Comments

The public comment period for this project ended February 13, 2006. DPD received one written comment regarding this proposal. The neighbor commented on her interaction with the applicant and expressed support of the proposal.

### **ADMINISTRATIVE CONDITIONAL USE CRITERIA AND ANALYSIS**

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 Midrise zone as an Administrative Conditional Use when they meet 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 and associated radio equipment will be located on the rooftop of a residential building that is located in the Midrise zone. According to the plans, both the antennas and the related equipment will conform to codified development standards, visual impacts and design standards of SMC 23.57.011 and 23.57.016. The antennas will be screened by materials and colors consistent with the current exterior of the building. The radio equipment will be located within a screened enclosure also painted to match the existing building.

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 location 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 it is constructed.

Traffic will not be affected by the presence of the constructed facility. The antennas will not emit noise. According to the applicant, any noise associated with the equipment cabinets is estimated to be below the ambient levels allowed in the Midrise zone and will be shielded by the walls of the equipment shelter in which they are to be located. Thereafter, it is proposed that minimal noise will be associated with approximately one vehicle trip per month to the site for maintenance. No dwelling units will be displaced in conjunction with this application. Thus, the proposal will not be substantially detrimental to the residential character of nearby residentially zoned areas.

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

Subsection C of SMC 23.57.016 states, "...Facilities in a separate screened enclosure shall be located near the center of the roof, if technically feasible. Facilities not in a separate screened enclosure shall be mounted flat against existing stair and elevator penthouses or mechanical equipment enclosures and shall be no taller than such structures." Subsection F of this same section further state, "New antennas shall be consolidated with existing antennas and mechanical equipment unless the new antennas can be better obscured or integrated with the design of other parts of the building".

According to the plans submitted, all three sector antenna arrays will be enclosed in fiberglass shrouds mounted on the stair and elevator penthouse wall facades and painted to match the existing building. The new antennas, microwave dish and associated radio equipment are orientated near existing antennas and mechanical equipment. 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.*

This residential facility is a legally non-conforming ten (10) story structure that exceeds the height limit of the Midrise zone by over 36'. The proposed minor communication utility will not exceed any portion of the existing structure.

The location and size of the apartment building are optimal for siting a minor communication facility. Per the applicant, the proposed design takes into account the gradual changes in elevation in the targeted area-University District. The proposed site location is close to the target area and has sufficient height to mount the cell site antennas to have an unobstructed view of the intended coverage area as shown on the applicant's propagation maps. The building's non-conforming height feature creates the opportunity for maximizing the coverage area of the installation and thus, reduces the number of similar facilities needed in the surrounding areas.

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. The site will be unmanned and therefore will not require waste treatments, water or management of hazardous materials. 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 Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

### **SEPA ANALYSIS**

The initial disclosure of the potential impacts from this project was made in the environmental checklist dated December 20, 2005. The information in the checklist, applicant's statement of Federal Communication Commission Compliance, supplemental information and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

Many environmental concerns have been addressed in the City's codes and regulations. The SEPA Overview Policy (SMC 25.05.665) discusses the relationship between the City's code/policies and environmental review. The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulation are adequate to achieve sufficient mitigation*" subject to some limitations. It may be appropriate to deny or mitigate a project based on adverse environmental impacts in certain circumstances as discussed in SMC 25.05.665 D1-7. In consideration of these policies, a more detailed discussion of some of the potential impacts is appropriate.

### **Short - Term Impacts**

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; consumption of renewable and non-renewable resources. These impacts are expected to be very minor in scope and of very short duration considering the installation process. No conditioning pursuant to SEPA is warranted.

### **Construction and Noise Impacts**

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

### Long - Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal, namely increases in demand for energy and increased generation of electromagnetic radiation emission. These long-term impacts are not considered significant or of sufficient adversity to warrant mitigation. However, due to the widespread public concerns expressed about electromagnetic radiation, this impact is further discussed below.

### Environmental Health

The Federal Communications Commission (FCC) has been given exclusive jurisdiction to regulate wireless facilities based on the effects of electromagnetic radiation emissions. The FCC, the City and County have adopted standards addressing maximum permissible exposure (MPE) limits for these facilities to ensure the health and safety of the general public. The Seattle-King County Department of Public Health has reviewed hundreds of these sites and found that the exposures fall well below all the maximum permissible exposure (MPE) limits. The Department of Public Health does not believe these utilities to be a threat to public health.

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.

Other long term impacts such as height, bulk and scale, traffic, and air quality are minor and adequately mitigated by the City's existing codes and ordinances. Provided that the proposal is constructed according to approved plans, no further mitigation pursuant to SEPA is warranted.

### **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 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 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).

### **CONDITIONS - SEPA**

#### 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 abuts 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.

### **ADMINISTRATIVE CONDITIONAL USE CONDITIONS**

#### For the Life of the Permit

1. Screening shall be integrated with architectural design, material, shape and color of the existing building.
2. Screening for the equipment shelter shall be integrated with the architectural design, material, shape and color of the existing building.

Signature: (signature on file)  
Tamara Garrett, Land Use Planner  
Department of Planning and Development

Date: April 20, 2006