



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: 3004073
Applicant Name: Pete James for Clearwire LLC Wireless
Address of Proposal: 9451 35th Avenue SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a new minor communication utility (Clearwire LLC) consisting of three panel antennas on the roof of an existing apartment building. Equipment cabinet will also be located on the roof. Existing minor communication utility to remain.

The following Master Use Permit components are required:

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

SEPA DETERMINATION

Exempt DNS EIS

DNS with conditions

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

BACKGROUND DATA

Site Visit: April 27, 2006

Zoning: Neighborhood Commercial 2-40 (NC2-40)

Site & Vicinity Description

This approximately 5,950 square foot proposal site has street frontage on 35th Avenue SW to the east and an alley to the west. The site is zoned Neighborhood Commercial 2 with a 40 foot height limit (NC2-40) and is developed with a four story apartment building. There is an existing wireless facility on the rooftop of this building. There is a slight slope from the south downward to the north. The site is not located within any mapped critical areas.

Surrounding Uses and Zoning

The subject site is located within an area zoned Neighborhood Commercial 2-40 (NC2-40). The area adjacent to the west is zoned Residential Single Family 5000 (SF5000). The development in the vicinity of the proposal site is mixed and contains single- and multi-family residential and commercial uses.

Proposal Description

The applicant proposes to place three panel antennas on the roof of an existing apartment building. The three antennas will be mounted on the roof and each will be encased in a fiberglass shroud painted to match the building. Clearwire coaxial cable will run vertically along the building up to the roof within a wall-mounted cable tray. Due to the slight slope of the site, there is some variation in building height. At the northeastern corner the building parapet is at a height of 42 feet, and the top of the proposed antennas is 46 feet which conforms to the zoning regulations of fifteen feet above the allowable 40 feet of building height. One equipment cabinet will also be located on the roof.

The antennas would be located on the roof of the building, which is not accessible to the building's residents. Signs are posted at the roof access points warning of the presence of radio frequency radiation per FCC guidelines. The existing site is an unmanned facility that requires approximately one maintenance visit per month. No change in the frequency of visits to the site is expected as a result of this proposal.

Public Comment

The initial comment period for the proposed project ended on April 12, 2006 and there were no comment letters received.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was originally made in the environmental checklist dated March 6, 2006. The information in the checklist, the applicant's statement of compliance with the Federal Communication Commission, supplemental information, and the experience of the lead agency with 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 and 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 regulations are adequate to achieve sufficient mitigation*" subject to some limitations. It may be appropriate to deny or mitigate a project based upon adverse environmental impacts in certain circumstances as discussed in SMC 25.05.665-D1 to 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: a.) decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; b.) increased traffic and demand for parking from construction equipment and personnel; c.) consumption of renewable and non-renewable resources. These impacts are expected to be very minor in scope and of very short duration for the installation process. No conditioning of these impacts pursuant to SEPA authority is warranted.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The replacement of the antennas and installation of equipment cabinets may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences and residences in the subject building. Due to the close proximity of nearby residences, the Department finds that the provisions within 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 7:30am and 6:00pm.

Long-term Impacts

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

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 King 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 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 medical devices, e.g., pacemakers. The Land Use Code (SMC 23.57.012-C2) 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 signal interference in nearby homes and businesses or in clinical medical applications were to result from this proposal, the FCC has the authority to require the facility to cease operation until the issue is resolved.

This analysis and decision is based upon the information presented above, review of the literature regarding these facilities, and the experience of the Departments of Planning and Development and Public Health with the review of similar projects. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted. Furthermore, the FCC has pre-empted the ability of local jurisdictions to mitigate these facilities based on health effects.

DECISION – SEPA

This decision was made after review of a completed environmental checklist and other information on file 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 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 permits 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 weekday hours between 7:30am and 6:00pm. This condition may also 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 work exterior to the building after approval from the Land Use Planner.

For the Life of the Project

2. Screening shall be erected for the equipment cabinet and the panel antennas shall be painted to match the building.
3. Maintain signs posted at the roof access points warning of the presence of radio frequency radiation.

