



**City of Seattle**

Gregory J. Nickels, Mayor

**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:** 3004382  
**Applicant Name:** Norris Bacho for Clearwire  
**Address of Proposal:** 2811 E. Yesler Way

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a new minor communication utility (Clearwire LLC) consisting of four panel antennas and two microwave dishes on the roof of an existing apartment building. Equipment cabinet and GPS unit will also be located on the roof.

The following approvals are required:

**Administrative Conditional Use Review** - to allow a minor communication utility in a Multi-Family Residential Lowrise 2 (L-2) zone to exceed the height limit, pursuant to Seattle Municipal Code (SMC) 23.57.011.B.

**SEPA - Environmental Determination** pursuant to 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 DATA**

Site Location and Description

The proposal site is a corner property located at 2811 E. Yesler Way on the corner of E. Yesler Way and 29<sup>th</sup> Ave. Development on the site consists of a three-story residential building with a flat roof. The building is 26'9" tall as measured from existing grade to the roof plate.

### Surrounding Zoning and Uses

The project site is located in a Residential Multi-Family Lowrise 2 (L-2) zone. L2 zoning is located to the north and west. Less intensive L-1 zoning is located to the east and Single Family Residential 5000 (SF 5000) zoning is located to the south.

The subject property is occupied by a 3-story residential structure, which is taller than surrounding 1-2 story buildings in this vicinity. Surrounding development consists of older apartment and single family structures.

### Proposal Description

The proposed project includes installation of a new minor communication facility for Clearwire LLC. The proposed facility will consist of 4 panel antennas, 2 microwave dish antennas, and one equipment cabinet with attached GPS unit, all located on the roof of the building. The proposed antennas are each 35.8" tall x 5.5" wide x 4.7" deep. All proposed antenna arrays and microwave dishes will be mounted directly to the inside of a new proposed screening structure composed of fiberglass screen wall material, painted to match the existing building. The proposed mechanical equipment cabinet and GPS antenna will also be located inside of the proposed screening structure.

### Public Comments

Public notice of this proposal was issued on March 30, 2006, with a notice of revised application issued on June 8, 2006. DPD received no comment letters.

### **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 for height exceeding the maximum zone height 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 applicant has noted that the proposed facility is located on a multi-family structure in a Lowrise multi-family zone. The applicant has submitted coverage maps and a letter from a professional engineer explaining that the proposed location is necessary to effectively provide coverage. The applicant has demonstrated that the proposal is the least intrusive facility in the least intrusive location to effectively provide service.

The proposed design, size, and height of the antenna screening, in conjunction with visibility from the surrounding properties and structures, will render the proposed communications facility visually unobtrusive, subject to the conditions listed in the Conditions listed below.

Screening structures will fully screen the proposed antennas, match the building's existing exterior, and be painted to match the building's exterior. The screening structure, because of the proposed size and materials, would appear to be a part of the roof structure and therefore will be compatible with the allowed uses in the zone.

There will be no noise impacts from the proposed antennas. There may be minimal noise impacts from the associated electrical equipment. The equipment will be located on the rooftop inside equipment cabinets, which will be screened by panels.

There will be no traffic impacts or displacement of residential units.

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 and the conditions listed in the Conditions listed below, the proposed antennas will be fully screened from view and be inconspicuous due to the proposed screening structures while remaining functionally effective for service coverage. 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 existing building roof plate is 26'9" above average grade, which is nonconforming for this zone (25 foot maximum height limit). The top of the proposed antenna mounting height is 36'2" above average grade, and the proposed screening structure is 36'9" above average grade. The applicant has submitted coverage area maps demonstrating service with and without the proposed facility, with the antennas mounted at the height shown on the submitted plans. The documentation within the MUP file provided by the applicant and discussed in *Proposal Description* above, demonstrates the requested antenna heights and required screening heights are the minimum necessary for the effective functioning of the minor communication utility. The 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. 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 in Lowrise zones. The proposed facility is minor in nature, will not be detrimental to the surrounding area, and will provide adequate 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 Conditional Use application is **CONDITIONALLY APPROVED** as noted below.

### **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 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.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated March 6, 2006. 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.

### Short-term Impacts

#### 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 the equipment 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 Impacts 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

##### 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’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.

#### **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.

- [X] 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**

##### For the Life of the Project

1. Screening shall be integrated with the architectural design, materials, shapes and colors that are consistent with the current exterior of the building as shown in the photo simulations and letter date stamped June 29, 2006. Any color or material changes shall be approved by the project planner.

**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 each street right-of-way and the alley. 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.

2. 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.

Signature: (signature on file) Date: July 13, 2006  
Shelley Bolser, Land Use Planner  
Department of Planning and Development