

FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

NEW VECTOR COMMUNICATIONS, INC.

FILE NO. CC-8603744

C.F. NO. 295494

for a Council conditional use
pursuant to the provisions of
Title 23, Seattle Municipal Code,

Introduction

New Vector Communications, Inc., has applied for Council conditional use authorization to allow the establishment of a communication utility not meeting development standards at 6000 - 16th Avenue S.W.

No correspondence or testimony in opposition was entered in the record.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, unless otherwise indicated.

The Director's report, submitted by the Department of Construction and Land Use (DCLU), recommended that the application be conditionally granted.

This matter was heard before the Hearing Examiner on March 25, 1987.

After due consideration of the evidence presented by the applicant, the information provided by the Director's report and all evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

Findings of Fact

1. The subject site is a 50 ft. by 50 ft. portion of the South Seattle Community College located about 430 ft. east of 16th Avenue S.W. and 40 ft. north of the southerly boundary of the college property.

2. The subject site is zoned Institutional 1 Lowrise 1 (I-1 L-1).

3. The subject site is undeveloped and covered with grasses. Surrounding the site is a campus parking lot 400 ft. to the north, vacant City-owned greenbelt south across S.W. Morgan Street and to the east and single family development in SF 5000 to the west with SF 7200 to the southwest. The single family areas are substantially lower in elevation than the subject site.

4. The applicant proposes to construct a transmission line of sight tower as part of its network of towers for its cellular phone service and other communications service. The three-legged steel tower would be 80 ft. high topped by a 13 ft. high antenna. A 28 ft. by 17 ft., one-story prefabricated building would house the communications equipment.

5. The Director issued a determination of non-significance (DNS) for the proposal finding some short term impacts during construction and a long term impact from the "aesthetic dissimilarity and height of the transmission tower from the uses in the vicinity."

6. The Director has recommended approving the use subject to conditions requiring a landscaping plan and landscaping according to that plan and requiring that the color of the tower

be light blue or light gray. The landscaping would be intended to screen the base of the structure from the parking lot.

7. The applicant agrees to the conditions recommended.

8. A Certificate of Non-interference has been filed by the applicant certifying that the use will not cause interference with the radio and television reception of neighbors and the college.

9. Visibility of the tower from the single family areas is reduced or eliminated by the topography of the area and a stand of trees.

10. Any radiation from the antenna would be within OSHA standards at the base of the structure.

Conclusions

1. A communications utility use is permitted outright in a multi-family zone if it meets development standards for institutions. Section 23.45.104A. The height limit for institutions in the I-1 L-1 zone is 30 ft. Section 23.45.092. The proposal does not meet that development standard. A communications utility not meeting standards may be permitted by the Council through Council conditional use authorization, with the Council waiving compliance with the standard. Section 23.45.104B.

2. No standards are set out in the Land Use Code for waiver of a development standard for a communications utility. In that case, the traditional analysis for conditional use, whether the waiver would be detrimental to the public welfare and whether it would be consistent with the intent of the Land Use Code, should be used.

3. The record shows no detriment to the public welfare. Further, the applicant agrees to the recommended conditions to make the facility less obtrusive.

4. As for the intent of the Land Use Code, the Multi-Family Policies do not address communications utilities specifically. The policy for height of buildings, Policy 4, states that its intent is

to establish maximum heights, maintain a consistent height limit throughout the building envelope, require that building heights reflect the topography of the site, reduce view blockage, encourage pitched roofs, and facilitate rooftop recreation and solar energy development.

p.23-27. Most of that intent is inapplicable to a tower structure, however, the location of the site at higher elevation than the single family development may be consonant with the intent that heights reflect topography. Further, in this case the height limit is not needed to reduce view blockage. The policy for small institutions and public facilities, Policy 17, p. 23-47, though not applicable to a communications utility is possibly evidence of Council intent. The policy recognizes that development standards should be allowed to vary somewhat from those for housing because of special structural requirements of some institutional uses. The concern is with compatibility with scale and character with the surrounding area. Height limits, for institutions, are not to vary from those for multi-family development except for church spires. Communications towers for line of sight transmission have special requirements, i.e., they must be high enough to function. The site chosen is removed from housing so compatibility with scale and character is not a significant concern. Unlike this policy, the code provision for communications utilities places no restriction on which standards

may be waived by the Council. Since a communications utility is not addressed in the policies it cannot be concluded definitely that waiver of the height limit would be consistent with the intent but it can be concluded that it would not definitely be inconsistent with the intent.

Recommendation

The communications utility should be approved by the Council and the conditions below, recommended and agreed to should be imposed:

1. A landscaping plan should be submitted for approval by DCLU; the approved landscaping shall be installed and an affidavit stating that landscaping conforming to the approved plan has been installed shall be filed prior to occupancy; and the landscaping shall be maintained for the life of the use.

2. The color of the transmission tower shall be light blue or light gray.

Entered this 8th day of April, 1987.

M. Margaret Klockars
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Deputy Hearing Examiner

NOTICE OF RIGHT TO PETITION
FOR FURTHER CONSIDERATION

Pursuant to Seattle Municipal Code Section 23.76.054, as amended, any person substantially affected by a recommendation of the Hearing Examiner may submit a petition in writing to the City Council requesting further consideration. The petition must be submitted within fifteen days after the date of mailing the recommendation of the Hearing Examiner and addressed to: City Council, Urban Redevelopment Committee, Municipal Building, Seattle, Washington 98104. The request for further consideration shall clearly identify specific objections to the Hearing Examiner's recommendation, facts missing from the record, and the relief sought.

Pursuant to Seattle Municipal Code Section 23.76.054(D), if there is no request for further consideration Council action shall be based on the record established by the Hearing Examiner.

The City Council Urban Redevelopment Committee should be consulted for further information on the Council review process.