



July 7, 2023

J5IP, on behalf of New Cingular Wireless PWS, LLC (AT&T)
Attn: Phillip Kitzes
23035 SE 263rd Street
Maple Valley, WA 98038
pkitzes@j5ip.com

Sent via: US Regular mail and e-mail

RE: Wireless Communication Facility File# CUP-22-0002, request for additional information

Dear Mr. Kitzes,

We last met virtually on Friday, March 31, 2023, to discuss the above referenced application to locate a Wireless Communication Facility at 928 Sturm Avenue, Walla Walla, WA 99362. Also, in the virtual meeting was attorney Meridee Pabst of Bush Law Firm, PLLC.

During this meeting, we discussed the pending wireless communication facility application and city concerns about the revised application material. We also requested additional information that the city needed to review the application. This request for information and clarification was made verbally for the convenience of the parties, and it was my understanding from representations you and Meridee made at the meeting that the requested information would be provided to the City within the forthcoming few weeks.

Since that meeting, the city has not received the information that was requested. In an effort to adhere to federal shot clock requirements I had several follow up telephone conversations with Meridee Pabst who stated that applicant representatives were meeting and discuss this project and that information would be forthcoming. To preserve the rights of both the city and the applicant, a tolling agreement would be filed. The city received the first tolling agreement dated April 19, 2023. The city subsequently received second and third tolling agreements on May 15, 2023, and June 21, 2023 respectively. The latest tolling agreement extends the FCC shot clock deadlines to October 6, 2023, assuming a September 21, 2023 potential Hearing Examiner public hearing date.

Given the length of time between the date of our March 31, 2023, virtual meeting to now, it is prudent that the city detail in writing the information that we requested on that

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date, to ensure there is no misunderstanding of what information the city needs to receive from the applicant for diligent processing of the application and preparation of its recommendations for the eventual Hearing Examiner public hearing. In order to attempt to meet the potential September 21, 2023, hearing date, the requested information must be received by no later than July 28, 2023 to ensure enough staff time to review the materials and provide adequate notice of public hearing. If after an initial review of the submitted information and materials the city determines it needs more time to fully review and analyze the submission, the city requests that the applicant agree to an additional extension of the “shot clock” tolling agreement.

Below is a written description of the information/materials the city requested verbally on March 31, 2023.

1. Walla Walla Municipal Code 20.170.070(A)(1) requires that *“Applications shall be required to provide documentation that comprehensive efforts to identify alternative locations were made.”*

The applicant has provided some documentation of its efforts to identify alternative location for the siting of its wireless facility including an “Alternative Site Analysis” provided on February 21, 2023. As stated verbally in the March 31, 2023, virtual meeting, it is staff’s position that this documentation does not adequately show the “comprehensive efforts” of the applicant. Thus, additional information and documentation showing the “comprehensive efforts” to identify alternative locations for the siting of its facilities must be provided by the applicant. Such information and documentation shall at a minimum include:

1. The name and title of the person(s) contacted.
 2. Documentation on the method used to contact them (letters, phone, email, visit, etc.)
 3. Date(s) of the contact(s)
 4. How was this response documented (returned phone call, email, meeting)
 5. Comprehensively described results of applicants attempts to identify alternative siting locations.
2. WWMC 20.170.070(D)(a) requires the “wireless communication facility, antenna support structure and all related structures to be set back a distance equal to the height of the wireless communication facility from the nearest residential property line.” As shown in the site plan, the proposed facility lies within 5 feet of the nearest northern residential property line. While the City understands that the subject property and northern property is owned by the Blue Mountain Church, it does not absolve the applicant’s responsibility to comply with this code

requirement. If permitted as currently designed, should that northern residentially zoned property be subsequently sold and/or developed, the current site of the proposed wireless communication's facility would create a non-conforming situation that the municipal code seeks to prevent. Therefore, staff will make a recommendation to the Hearing Examiner that the applicant be required as a condition of approval, elimination or moving of the northern property line, via a Boundary Line Adjustment land survey application to ensure that there is at least a 65-foot (based on the proposed height of the tower) setback from every residential property line.

3. As previously noted, WWMC 20.170.070(D)(a) requires the "wireless communication facility, antenna support structure and all related structures to be set back a distance equal to the height of the wireless communication facility from the nearest residential property line." The submitted site plan is currently drawn to show that only the fence is lying at 65 feet from the southern residential property line; however, the mono-pine structure is clearly hanging over the facility fence a certain unmeasured amount. The applicant must show the "drip line" of the proposed mono-pine on the site plan drawing and demonstrate that the entire wireless communications facility, which includes the entire mono-pine (measured from the drip line), is a minimum 65-foot setback from the residential property line.
4. WWMC 20.170.032(D) requires a site map showing the proposed facility from street level from North, South, East and West perspectives. The site plan map provided by the applicant only shows the North and West elevations. The applicant must provide the south and east elevations. All elevations must be proposed "as it will appear when completed, including any proposed features to conceal, camouflage, or visually blend the proposed facility into its surroundings" including landscaping. Landscaping for the proposed wireless communication facility was only shown in the aerial view plan. See paragraph 7 below for additional landscaping requirements.
5. The plan set provided by the applicant does not show the recommendations of the acoustical report mitigation conditions. The applicant must provide a revised site plan set that shows the landscaping and noise screening on the site plan to reflect compliance with the acoustical report mitigation conditions. Staff recognizes that the noise mitigation proposed is to ensure compliance with the maximum allowable noise levels of WWMC 8.13. However, given the nature of the facility, its location within a residential zone, and the types of noises that will be emitted from the site, staff intends to recommend that, as a condition of Conditional Use Permit approval, the applicant must enclose the entire wireless

communication facility with the noise mitigating wall and partial roof as proposed in the noise mitigation report, or enclose any noise emitting equipment in a permanent enclosed structure. This condition also ensures compliance with the development standards for screening and must be camouflaged to the greatest practicable extent to reduce visibility as viewed from any street or residential property and from the yards and main floors living areas of any residential properties as required in WWMC 20.170.080(A). Lastly, the staff recommendation is not only to mitigate noise conditions, but also a “visual mitigation tactic [...] to preserve neighborhood aesthetics and reduce visual clutter in the community.” WWMC 20.170.010(C). If the applicant wishes to propose an alternative design that meets both the noise and visual impact mitigation requirements of the municipal code, we will consider it.

6. WWMC requires that all projects be designed to meet the Design Requirements of WWMC 15.04.005 and particularly for Seismic Design Category “D”. The proposed plan set shows the seismic design category as “C” and is designed in accordance with the 2018 International Building Codes. The applicant shall revise its plan sets to reflect the seismic design category “D” and ensure that the facility is designed to meet the currently adopted building codes when it applies for a building permit, should the Conditional Use Permit be granted. The applicant should note that the city anticipates adopting the 2021 buildings codes which will become effective October 29, 2023.
7. The applicant proposes landscaping in the form of evergreen bushes and trees as a method of concealment in order to minimize the visual effects of the proposed facility. WWMC 20.106.045(B) requires that any development which includes required landscaping, must provide for a permanent irrigation system to ensure regular watering at least until the plantings have been adequately established. Such length of watering shall be determined by the City Arborist.

The applicant has proposed the planting of 21 evergreen trees with a 10’ to 12’ foot maximum height around the perimeter of the wireless communications facility and an additional 12 evergreen trees with a 30’ 40’ foot maximum height. Title 12.49, Urban Forestry Practices, of the WWMC requires a “biodiversity in the species, genus, and family of trees is extremely important to the overall health and longevity of a tree population since insects and diseases general impact certain tree species and their close relatives.” However, the city understands from statements of the applicant at the March 29, 2023, meeting that evergreens were chosen because they keep their foliage year-round providing greater aesthetic and noise protection and deciduous trees drop leaves thereby reducing the mitigating effect. The city requests a statement of

justification for why it has chosen the particular evergreen trees for the landscaping. Therefore, the proposed landscaping plan for the wireless communication facility shall be provided to and approved by the City Arborist as a condition of permit approval. The landscaping plan must meet the intent of the Urban Forest code as well as the aesthetic and visual impacts of the proposed Wireless Communication Facility. In any event all such plantings shall be performed in accordance with the city's arboricultural standards and specifications." See WWMC 12.49.110 and WWMC 20.160.045(C).

Lastly, WWMC 20.160.060 sets forth the maintenance requirements of landscaping and reads as follows:

WWMC 20.160.060 Maintenance Requirements.

A. All shrubs, trees and vegetative material used in the screening or landscaping shall be perpetually maintained in a healthy, growing condition. Irrigation systems shall be kept operational. Dead, diseased or dying plant material shall be replaced immediately, and planting areas shall be maintained reasonably free of trash and weeds.

B. Fences used in screening and landscaping shall be perpetually maintained in an attractive and structurally sound condition.

C. A maintenance surety in the form of a bond or other security acceptable to the city covering twenty percent of the cost of the original plant materials in place may be required for one year following installation to ensure compliance with this code.

1. If a maintenance surety is required under this section, the property owner shall provide the city with a nonrevocable notarized agreement granting the city and its agents the right to enter the property and perform any necessary work.

2. The maintenance surety may be used by the city to perform any maintenance, and to reimburse the city for documented administrative costs associated with the maintenance activity.

3. Upon completion of the one-year maintenance period, the city shall promptly release the maintenance surety or any remaining portion thereof.

The applicant shall ensure compliance with these maintenance and surety requirements for the landscaping as a condition of the Conditional Use Permit.

It is anticipated that these requirements will be established as State Environmental Policy Act (SEPA) mitigation measures and/or recommendations conditions for the Conditional Use Permit which is issued by the Hearing Examiner.



As previously stated, this letter memorializes the verbal request made on March 31, 2023. This request for this information and plan revisions does not preclude the city from requesting additional information or clarification but is necessary for continued processing of the Conditional Use Permit and is essential for the city in making its recommendations to the Hearing Examiner when the hearing is scheduled.

If you have any questions or wish to seek clarification on the details of this letter please contact me at my direct line, (509) 524-4735 or by email at pfred@wallawallawa.gov.

Best regards,

A handwritten signature in blue ink, appearing to read "Preston Frederickson".

PRESTON FREDERICKSON

Development Services Director

509.524.4735
wallawallawa.gov

Cc: Meridee Pabst, Bush Law Group, LLC via email:
meridee.pabst@wirelesscounsel.com