

CONDITIONAL USE PERMIT – LEVEL III
Wireless Communications Facility Project Narrative
(AT&T: WL4557 Walla Walla Mill Creek)

Submitted to the City of Walla Walla, Washington
Development Service Department
Submitted: November 2, 2022
Revised: July 25, 2023

Applicant: New Cingular Wireless PCS, LLC (“AT&T”)
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Tualatin, OR 97062

Representative: J5 Infrastructure Partners
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Property Owner: Blue Mountain Church
928 Sturm Avenue
Walla Walla, WA 99362

Project Address: 928 Sturm Avenue
Walla Walla, WA 99362

Description & Tax Lot: GPS Coordinates: 46.05910, -118.30933
Parcel No. 360728140121

Zoning Classification: Neighborhood Residential (RN)

J5 Infrastructure is submitting this application on behalf of New Cingular Wireless PCS, LLC (“AT&T”).

1. PROJECT OVERVIEW

AT&T is proposing to install a new wireless communications facility (“WCF” or “facility”), WL4557 Walla Walla Mill Creek site, at the abovementioned address. The proposal includes a new 65-foot monopine (stealth technology) to meet AT&T’s coverage objectives (providing outdoor, in vehicle, and in-building coverage) within a geographic area in high demand.

The facility will include (6) panel antennas, and the overall height of the monopine will be 65'-0" (includes a 6' lightning rod). All ground equipment will be within a secured fenced 30'x50' lease area and there will be an emergency backup generator within the compound. The proposed monopine will provide stealth technology to ensure the facility blends with its surroundings.

AT&T intends for its application of the proposed WCF to include the following documents (collectively, "AT&T's Application"):

- Attachment 1 - Project Narrative (this document-Revised in July)
- Attachment 2 - Statement of Code Compliance (Revised in July)
- Attachment 3 - WCF CUP Application (signed)
- Attachment 4 - Owner's Letter of Authorization
- Attachment 5 - SEPA Checklist (Revised in February)
- Attachment 6 – Environmental Technical Memo (New in February)
- Attachment 7 - Geotechnical Report
- Attachment 8 - NIER Report (Revised to 55' RAD in February)
- Attachment 9 - Environmental Phase 1
- Attachment 10 - Soil Resistivity Report
- Attachment 11 – Noise Report (Revised in July)
- Attachment 12 - Title Report
- Attachment 13 - FCC License
- Attachment 14 – Photo-Simulations
- Attachment 15 - RF Justification (Revised in July)
- Attachment 16 - ATT Compliancy Statement
- Attachment 17 – Zoning Plan Set (Revised in July)
- Attachment 18 – Alternative Site Analysis (Revised in July)
- Attachment 19 – AT&T RF Safety Information (New in July)

As shown in AT&T's Application, AT&T's proposal meets the City of Walla Walla's criteria for siting new wireless communications facilities and complies with all other applicable city, state, and federal regulations. AT&T's proposal is also the least intrusive means of meeting AT&T's service objective. Accordingly, AT&T respectfully requests that Walla Walla approve this project as proposed.

Please Note: The responses and information included in **this document** are intended to support and supplement this application request. All references to "Attachments" in this Project Narrative and the Statement of Code Compliance are in reference to the attachments included as part of AT&T's Application.

2. PROPOSED PROJECT DETAILS

Detailed information regarding the subject property and proposed lease area is included in **Attachment 17, Zoning Plan Set.**

2.1. Subject property. The subject property of this proposal is located at 928 Sturm Ave in the City of Walla Walla (the “Property”). The property is owned by the First Church of God. The property is zoned as Neighborhood Residential (RN) and is currently used as a church with associated parking. The back half of the church properties are undeveloped with vegetation (grasses and trees). The surrounding properties are residential or proposed residential development. (Note: The church property is comprised of 5 separate parcels.)

2.1.2. Lease Area.

- The lease area is a 30’x50’ (1,500 SF) compound + a 20-foot access easement from Sturm Avenue (the “Lease Area”). There is native vegetation (grasses and trees) in the westerly portion of the underlying property—where the proposed facility is to be located. No vegetation is proposed to be removed other than trenching for power/fiber as necessary.
- The lease area will be surrounded by a 6’-0” chain link fence screened behind a vegetative buffer (evergreen).

2.1.3. Access and Parking.

- Direct access is via the existing parking area in a 20-foot-wide easement from Sturm Avenue. (Proposed to remain in natural state once exits paved area to site).

2.1.4. Utilities.

- **Power.** Power will be provided by the resident power company—either Pacific Power or Columbia Rural Electric Association. AT&T’s GC will install a new meter base and will run conduit from the new meter base to the new equipment. A bridge will be provided from the equipment to the antennas.
- **Fiber.** Fiber to the Facility will be provided via the local fiber purveyor.
- As this is an un-manned wireless communications facility, no water, sewer, or other utilities are required.

2.2. Wireless Facilities and Equipment.

Specifications of the facilities outlined below, including a site plan, can be found in **Attachment 17, Zoning Plan Set.**

2.2.1. Antennas and accessory equipment. Three (3) sectors on top of the proposed monopine will contain the following AT&T equipment:

- Six (6) panel antennas
- Nine (9) remote radio head units (RRHs)
- One (1) surge protector
- One (1) lightning rod
- All other associated and ancillary equipment

Note: All AT&T panel antennas and other ancillary equipment located on the structure will be painted appropriately to match the monopine technology. Additionally, the panel

antennas will be covered with pine socks.

2.2.2. Ground equipment.

- Ground equipment includes:
- Two (2) Equipment cabinets
- Generator w/ concrete pad
- One (1) Cable Bridge
- One (1) GPS
- All associated and accessory equipment
- 6-foot chain-link fence with privacy slats.

2.3. Additional Details.

2.3.1. Landscaping. AT&T is proposing to supplement the existing vegetation with evergreen plantings along the westerly and southerly property lines. At maturity, the vegetation will be approximately 30-40 feet in height and will provide added screening to the adjacent properties. Around the fenced lease area, there will be evergreen plantings (10-12' at maturity) to provide additional screening of the ground equipment.

2.3.2. Lighting. The monopine will not be artificially illuminated and no lighting is required pursuant to state or federal requirements.

3. NETWORK COVERAGE AND SERVICES.

3.1 Overview—AT&T 4G LTE. AT&T is upgrading and expanding its wireless communications network throughout the Pacific Northwest. LTE stands for “Long Term Evolution.” This acronym refers to the ongoing process of improving wireless technology standards with speeds up to ten times faster than 3G. LTE technology is the next step in increasing broadband speeds to meet the demands of uses and the variety of content accessed over mobile networks.

Upon completion of this update, AT&T will operate a state-of-the-art digital network of wireless communications facilities throughout the proposed coverage area as part of its nationwide wireless communications network.

The new Facility will allow for uninterrupted wireless service in the targeted service area with fewer dropped calls, improved call quality, and improved access to additional wireless services that the public now demands. This includes emergency 911 calls within the area.

3.2. Coverage Objectives.

The primary objective of the proposed new Facility is to fill a significant coverage gap in the City of Walla Walla. Wireless demand is growing, and robust wireless networks are essential

to businesses and residences throughout Walla Walla. (As of December 2022, over 70% of adults and over 80% of children live in wireless-only households.¹) Currently, portions of the city in and around Walla Walla East have minimal to no 4G voice service. Please refer to **Attachment 15 – RF Justification**. The proposed new facility will provide coverage to the Walla Walla East residential area, as well as to Berney Elementary school, Pioneer Middle School, Pioneer Park and various major and minor roads. The proposed location for the new facility is in the center of the coverage gap and will provide sufficient continuous and uninterrupted outdoor, in vehicle, and in building wireless service within the Targeted Service Area, resulting in fewer dropped calls, improved call quality, and improved access to additional wireless services the public now demands (this includes emergency 911 calls).

In addition to the coverage gap in the center of the Targeted Service Area, the areas on the outer edges of the Service Area have existing AT&T coverage, which is at or near its capacity. As such, the current coverage in those areas is insufficient for the volume of traffic (*i.e.*, though this area already has AT&T coverage, additional capacity is needed to serve the volume of users).

3.3 FirstNet

In addition to providing customers with reliable coverage, fast speeds, and excellent quality, the proposed project will include facilities to support the Nationwide Public Safety Broadband Network (“**FirstNet**”).² In its partnership with the First Responder Network Authority, AT&T is responsible for building, maintaining, and upgrading the FirstNet network for the next 25 years. In order to support FirstNet, AT&T is upgrading its existing wireless sites and building new wireless facilities throughout Washington and the United States. FirstNet Built with AT&T is designed to be reliable, functional, safe, and secure, and it will provide optimal levels of operational capacity at all times. As of January 1, 2018, FirstNet users have access to FirstNet on all AT&T commercial LTE bands, allowing them to also benefit from AT&T’s overall improvements to its commercial network.

FirstNet’s benefits include:

- Always on, 24x7 **priority and preemption** for First Responders across data and voice communications.
- A physically separate and highly secure network core that is fully dedicated to FirstNet – utilizing end to end encryption and keeping public safety and emergency management traffic separate from commercial traffic; and
- A dedicated fleet of portable network deployable assets to support first responder and emergency manager connectivity for planned events, emergencies, in extremis, and other mission requirements.

¹ *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2022*, available at <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202305.pdf>.

² <https://www.firstnet.gov>

4. ALTERNATIVE SITES ANALYSIS

AT&T diligently works to site its facilities in a location that can meet development requirements while still meeting its network objectives. In this case, 13 properties were identified as potential sites—including the proposed location. The site chosen is in the center of the search ring and addresses both coverage and capacity in all directions. Please see **Attachment 18 – Alternative Sites Analysis** for more details on the siting process.

5. APPLICABLE LAW

- 5.1. Local Codes.** Pursuant to the Walla Walla Municipal Code, new WCF support towers in the RN zone are subject to a Type III Conditional Use Permit (CUP) and must comply with the criteria in WWMC Chapter 20.170. See **Attachment 2 – Statement of Code Compliance** for AT&T’s demonstration of compliance with the applicable code.
- 5.2. State Law.** In accordance with Washington environmental provisions, a SEPA checklist has been provided to help evaluate the environmental impacts of the proposal. See **Attachment 5 – SEPA Checklist**.
- 5.3. Federal Law.** Federal law, primarily found in the Telecommunications Act of 1996 (“Telecom Act”) acknowledges a local jurisdiction’s zoning authority over proposed wireless facilities but limits the exercise of that authority in several important ways.

5.3.1. Local jurisdictions may not materially limit or inhibit. The Telecom Act prohibit a local jurisdiction from taking any action on a wireless siting permit that “prohibit[s] or [has] the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. §332(c)(7)(B)(i)(II). According to the Federal Communications Commission (“FCC”) Order adopted in September 2018³, a local jurisdiction’s action has the effect of prohibiting the provision of wireless service when it “materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.”⁴ Under the FCC Order, an applicant need not prove it has a significant gap in coverage; it may demonstrate the need for a new wireless facility terms of adding capacity, updating to new technologies, and/or maintaining high quality service.⁵

While an applicant is no longer required to show a significant gap in service coverage, in the Ninth Circuit, a local jurisdiction clearly violates section 332(c)(7)(B)(i)(II) when it prevents a wireless carrier from using the least intrusive means to fill a significant gap in service coverage. *T-Mobile U.S.A., Inc. v. City of Anacortes*, 572 F.3d 987, 988 (9th

³ *Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84 (rel. Sept. 27, 2018); 83 Fed. Reg. 51867 (Oct. 15, 2018) *affirmed in part and vacated in part*, *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied*, 594 U.S. ___, 141 S.Ct. 2855 (June 28, 2021)(“FCC Order”).

⁴ *Id.* at ¶ 35

⁵ *Id.* at ¶¶ 34-42.

Cir. 2009).

- **Significant Gap.** Reliable in-building coverage is now a necessity and every community's expectation. Consistent with the abandonment of landline telephones and reliance on only wireless communications, federal courts now recognize that a "significant gap" can exist based on inadequate in-building coverage. See, e.g., *T-Mobile Central, LLC v. Unified Government of Wyandotte County/Kansas City*, 528 F. Supp. 2d 1128, 1168-69 (D.Kan. 2007), *affirmed in part*, 546 F.3d 1299 (10th Cir. 2008); *MetroPCS, Inc. v. City and County of San Francisco*, 2006 WL 1699580, *10-11 (N.D. Cal. 2006). **This project will fill a significant gap in coverage.**
- **Least Intrusive Means.** The least intrusive means standard "requires that the provider 'show that the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve.'" 572 F.3d at 995, *quoting MetroPCS, Inc. v. City of San Francisco*, 400 F.3d 715, 734 (9th Cir. 2005). These values are reflected by the local code's preferences and siting requirements.

5.3.2 Environmental and health effects prohibited from consideration. Also under the Telecom Act, a jurisdiction is prohibited from considering the environmental effects of RF emissions (including health effects) of the proposed site if the site will operate in compliance with federal regulations. 47 U.S.C. § 332(c)(7)(B)(iv). AT&T has included with this application a statement from its radio frequency engineers demonstrating that the proposed facility will operate in accordance with the FCC's RF emissions regulations. See **Attachment 8 – NIER Report**. Accordingly, this issue is preempted under federal law and any testimony or documents introduced relating to the environmental or health effects of the proposed site should be disregarded in this proceeding.

5.3.3 No discrimination amongst providers. Local jurisdiction also may not discriminate amongst providers of functionally equivalent services. 47 U.S.C. § 332(c)(7)(B)(i)(I). A jurisdiction must be able to provide plausible reasons for disparate treatment of different providers' applications for similarly situated facilities.

5.3.4 Shot Clock. Finally, the Telecom Act requires local jurisdictions to act upon applications for wireless communications sites within a "reasonable" period of time. 47 U.S.C. § 332(c)(7)(B)(ii).

The FCC has issued a "Shot Clock" rule to establish a deadline for the issuance of land use permits for wireless facilities. 47 C.F.R. § 1.6001, *et seq.* According to the Shot Clock rule, a reasonable period for local government to act on wireless applications is 90 days for a collocation application, with "collocation" defined to include an attachment to any existing structure regardless of whether it already supports wireless, and 150 days for all other applications.

The Shot Clock applies to all authorizations required for siting a wireless facility,

including the building permit, and all application notice and administrative appeal periods. Pursuant to federal law, the reasonable time for review of this application is 150 days.

Thank you for your time and consideration in the review of this request. Please feel free to contact me by phone (206.227.7445) or email (pkitzes@j5ip.com) if there are any questions or comments.

J5 INFRASTRUCTURE PARTNERS

Phil Kitzes

PHILLIP KITZES
Project Manager I