

September 21, 2023

To Hearing Examiner

Re: Wireless Communication Facility File# CUP-22-0002

From: Mary Gibson 938 Home Ave., Walla Walla, WA 99362

Mr. Kottkamp,

This letter will show that the application before us does not meet the requirements of the Walla Walla Municipal Code.

Walla Walla Municipal Code 20.170.070 (A)(1) requires that *“Placement of an antenna support structure shall be denied if the antenna support needs can be met by co-location on an existing antenna support structure.”* It further stipulates *“Applications shall be required to provide documentation that comprehensive efforts to identify alternative locations were made.”*

### **What does “Comprehensive” mean?**

The website USLegal defines comprehensive as **“including all or everything.”** The website Law Insider defines Comprehensive as **“covering completely, inclusive; large in scope or content.”** Soule’s Dictionary of English Synonyms offers these synonyms: “Extensive, wide, broad, large, capacious, compendious, full, sweeping, wide-reaching, all-embracing, of great scope, of extensive application.” Roget’s Desk Thesaurus adds these antonyms: “limited, restricted, narrow, specialized, specific; exclusive, incomplete.”

### **Did the applicant document comprehensive efforts?**

Development Services wrote in their July 7, 2023 letter (Attachment 1) to the applicant: “It is staff’s position that this documentation does not adequately show the “comprehensive efforts” required.” The applicant revised their response but it is still inadequate, and contains contradictions and omissions. (Attachment 2) The neighbors have been asking for the detailed information since February, and we still have only shoddy half answers; nothing that rises to the comprehensive level required by the Code.

In Attachment 2, from the applicant’s latest application, the 8-1-2023 update, we are told the applicant sent out one letter to each of 11 property owners on March 13, 2020. None of the land owners, according to the application, received a second letter or a visit. If one really wanted responses, would one have done more to find alternative sites? Is a single letter that may not have even been received, considered “a comprehensive effort?”

How many of those letters were to co-location opportunities? Only one, to the Reid Center. The applicant said the letters were mailed to “the owner and mailing address listed in the County Assessor’s records.” Those records show that the owner of record of the Reid Center is the Whitman College Board of Trustees (Attachment 3), but the applicant says in their spreadsheet that the letter was addressed to the ASWC Radio Committee. (ASWC, The Associated Students of Whitman College) **So the applicant contradicts themselves, in one place saying they sent a letter to the Whitman College Board of Trustees, and in another place saying they sent it to the ASWC Radio Committee.**

Who is the unnamed person on the “ASWC Radio Committee” at the Reid Center? **Since this is the only co-location opportunity the applicant even mentions, these are important questions.** On September 15th, 2023 I visited the Reid Center and talked with Julie Dunn, Senior Associate Dean of Students, and advisor to the ASWC Radio Committee. She told me that the owner of the tower is the Whitman College Board of Trustees, and that the ASWC Radio Committee is made of students and have no say about the tower. The students who were on the committee in 2020 when the letters were sent have graduated and left Whitman, she said. She also told me that the students were sent home on March 10th in 2020, the beginning of Spring Break; she doubts anyone actually received a letter sent on March 13, 2020.

This scant “documentation” leaves us with several more questions: How many of the other “contacts” were also defective? Did the appropriate decision makers see these letters; we now know that no one appropriate saw the letter the applicant says they sent to the Reid Center. The Walla Walla Development Services Department denied in several FOIA requests that they have copies of the letters the applicant says they sent; they also have no proof of how the letters were sent (e.g. Registered mail? Certified mail? ) There is no documentation of follow up of the letters in an effort to find co-location opportunities. Even this minimal documentation is missing.

Also worth noting is that the applicant alleges that these contacts were made in March of 2020; the ordinance that they are “responsive” to was not passed until October of 2022, almost 2 and a half years later. Did the applicant realize then that they had to document comprehensive efforts to identify alternative locations? Why would they not redouble their efforts once the requirements of the code were clear? All we know for sure is that they didn’t. And since the 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”* this application should be denied.

**Did the applicant use a “search ring” as a rationale for limiting where they looked for alternative sites? Is this an excuse for being less than comprehensive?**

Keep this question in mind while noting how the applicant talks about “search rings” throughout this project. Here is the “Alternative Site Analysis” in its entirety from the initial application (11/7/22) (Note: This document was not made a part of the Staff Report to you; the complete document is included here as Attachment 4) (The underlining is my emphasis.)

6. **Alternative Site Analysis.** It is important to note that there have been several attempts to locate a facility within the Walla Walla area. The RF engineers produce “search rings”, or places to look that are ideal to provide the gap coverage they need within the service network. It is our responsibility to identify properties based on zoning and land use that would be best to provide the necessary coverage. Once this is identified, there needs to be a willing property owner for the site.

The search began with a ring was about a mile west of this site. Although there may have been more suitable sites (zoning and uses), there were no owners willing to have a facility on their property.

The ring was re-issued to the east — about where this site is located. Again, there were issues with zoning and the inability to find a landowner willing to enter a lease. This ring was expanded out further in all directions, which is where the church property was identified.

Please note that this original application (11/7/22) made NO mention of any search for colocation opportunities. Also, please notice that the applicant stated in this initial application that the search began with a ring ABOUT A MILE WEST of this site..... and that THERE WERE NO WILLING OWNERS. This, it turns out, is false. What the applicant did not tell us in their “Alternative Site Analysis” is that they found a site at 126 W Poplar St, applied for a permit and built a facility inside the first search ring. (See Attachment 5) And they kept looking, well outside their original “search ring” and found another willing land-owner, the Blue Mountain Church. In later versions of the application (Attachment 6) the applicant objects to considering alternative sites outside their current search ring, which itself was over a mile outside the original search ring. The applicant has not honestly represented the facts. Is it “comprehensive” from the perspective of the Municipal Code? Or is this the antithesis - limited, restricted, narrow, incomplete?

So there is no magic about search rings. Viable sites may well lie outside “search rings.” That is how the Blue Mountain Church site came to be proposed! Blue Mountain Church is not an ideal site; the applicant kept moving the search ring until they found something that could work.

In addition to already satisfying the need for a wireless communication facility identified by the initial search ring, the ATT website shows that they have complete coverage for all

of Walla Walla; they show no gaps in coverage anywhere in the city. The FCC also shows the same for Walla Walla. Please refer to the submission of my colleague Douglas DeMers for documentation on this. I have never heard anyone in Walla Walla complain about cell coverage.

Also, Are there potential co-location sites that were left out of this analysis? Yes, sites that were omitted, and sites that were not seriously considered. Why would they do that? J5 makes more money if they site and build a new tower, rather than co-locate. ATT also has an incentive to build a new tower, as this allows them to make money leasing space on the future tower to others. However, the City code requires: *“Placement of an antenna support structure shall be denied if the antenna support needs can be met by co-location on an existing antenna support structure” “Applications shall be required to provide documentation that comprehensive efforts to identify alternative locations were made.”*

If the applicant had honestly documented comprehensive efforts to identify alternative co-location opportunities, as required by the Walla Walla Municipal Code, we would have answers to our questions about several sites. A small sample of these include:

1. 2301 Russell Creek Road. (See comments on next page.)
2. 2432 Kendall Road: An existing tower, not mentioned by the applicant.
3. Leonetti Cellars: An existing tower, not mentioned by the applicant.
4. N Wilbur: An existing tower, not mentioned by the applicant.
5. Towers near the cemetery (Existing towers, not mentioned by the applicant.)

If the consideration of 2301 Russel Creek Road had been comprehensive, as required by the ordinance, the applicant could have inquired about extending the proposed 100 ft. tower to 120', since the county allows this, and the possibility of co-locating at a height that would have allowed better RF coverage, instead of “assuming an 85ft antenna tip height,” per the applicant’s Updated July 2023 Alternative Sites Analysis. The tower does not exist yet, but because construction of towers in the county is easier than in residential areas, it may become a reality sooner than a facility at Blue Mountain Church. In addition to these existing towers, there are a substantial number of buildings in Walla Walla that are possible colocation opportunities that the applicant has not investigated. My neighbor Barbara Knudson identified 27 in less than one hour, and she does not consider her work complete. (Attachment 7) The applicant has clearly not documented a “comprehensive effort” to co-locate , as required by the Walla Walla Municipal Code.

The neighborhood affected by the possibility of this tower is widely acknowledged to be a premier residential location in Walla Walla. One could not find a prettier place to live, with beautiful streams and springs and ponds and deer and birds. This is the place people think of when reading Walla Walla's motto: A wonderful place to Live Work Play. This is the neighborhood where people walk their dogs, bring their kids to daycare, and enjoy tranquility and peace. This tower does not belong in this environment when comprehensive efforts have not been made to locate other suitable options. The City's Municipal Code must be enforced.

Just to add a note about the personal situation my husband and I. This facility, if built, would be the first thing we would see walking out our front door, towering well above the beautiful foliage framing my neighbor's yard. The disgusting sight would be as welcome as finding a counterfeit \$100 bill in my wallet.

Also, the loss in value of our house due to the "disamenity value" of a cell tower amounts to a taking from my husband and I, a loss likely to be \$60,000 or more, according to a reputable study that found reductions of up to 7.6%. The city's job is to preserve amenities and values, not destroy them. (<https://www.researchgate.net/publication/356144940> The Disamenity Value of Cellular Phone Towers on Home Prices in Savannah Georgia)

Attachments:

1. July 7, 2023 letter from Preston Frederickson to J5IP
2. Excerpt from 8/1/23 application update: "Contact with Area Property Owners"
3. Walla Walla County Property Search results for 280 Boyer Avenue
4. Applicant's November 7, 2022 Initial Application for CUP
5. Permit and Inspection report for Wireless tower at 126 W Poplar St.
6. Search Ring & Coverage Objectives from latest application update (Exhibit Pg 227)
7. 1 hour survey by Barbara Knudson of Colocation & alternative site opportunities





Attachment 1  
please see Flagged text  
on page 2.

July 7, 2023

J5IP, on behalf of New Cingular Wireless PWS, LLC (AT&T)  
Attn: Phillip Kitzes  
23035 SE 263<sup>rd</sup> 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](mailto:pfred@wallawallawa.gov).

Best regards,

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

**PRESTON FREDERICKSON**

*Development Services Director*

509.524.4735  
[wallawallawa.gov](http://wallawallawa.gov)

Cc: Meridee Pabst, Bush Law Group, LLC via email:  
[meridee.pabst@wirelesscounsel.com](mailto:meridee.pabst@wirelesscounsel.com)

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55 E. Moore St., Walla Walla, WA 99362 | 509.524.4710 | [wallawallawa.gov](http://wallawallawa.gov)

This is also  
Exhibit page 232.

Attachment 1: Excerpt from 8/1/23 application update

# Contact with Area Property Owners

• After identifying the properties in the previous slide (aerial view), on March 13, 2020, J5 sent letters to 11 property owners, as listed below, **directed to the owner** and mailing address listed in the County Assessor's records and inquiring about potential interest in leasing a site to AT&T.

Site Number	Site Name	Site Address	Mailing Address	Lat/Long	Owner	Notes
WA4557	WALLA WALLA MILL CREEK	364 S Park Walla Walla, WA 99362	364 S Park Walla Walla, WA 99362	46.065497 -118.307786	Walla Walla School District #140	3/13: Sent a letter to the owner
WA4557	WALLA WALLA MILL CREEK	342 S Wilbur Ave Walla Walla, WA 99362	342 S Wilbur Ave Walla Walla, WA 99362	46.06651 -118.309034	Bethel Assembly	3/13: Sent a letter to the owner
WA4557	WALLA WALLA MILL CREEK	1603 E Alder St	3207 Hackberry Rd Irving TX 75063	46.068120 -118.304034	7-11 Store	3/13: Sent a letter to the owner
WA4557	WALLA WALLA MILL CREEK	1500 Highland St	PO BOX 19550 Des Moines, WA 98198	46.061888 -118.302959	Grace United Methodist Church	4/13: Tom with Stephens is getting info from the Church
WA4557	WALLA WALLA MILL CREEK	323 Catherine St Walla Walla, WA 99362	1625 E Alder St Walla Walla, WA 99362	46.068010 -118.303354	Lutheran Pentecostal Church	4/7: Jerry Lin (509-241-2769) and Jeff Hall (pastor), 1 acre of land that is available
WA4557	WALLA WALLA MILL CREEK	201 N 3rd Ave Walla Walla, WA 99362	323 Catherine St Walla Walla, WA 99362	46.065149 -118.303702	St Paul's Parish Church	3/13: Sent a letter to the owner
WA4557	WALLA WALLA MILL CREEK	6 W Rose St Walla Walla, WA 99362	201 N 3rd Ave Walla Walla, WA 99362	46.067808 -118.302749	Army Corps of Engineers	3/13: Sent a letter to the owner
WA4557	WALLA WALLA MILL CREEK	7 W Main St Walla Walla, WA 99362	6 W Rose St Walla Walla, WA 99362	46.068302 -118.303982	Walla Walla Wellman Towers	3/13: Sent a letter to the owner
WA4557	WALLA WALLA MILL CREEK	200 Boyer Ave Walla Walla, WA 99362	7 W Main St Walla Walla, WA 99362	46.069513 -118.301793	Baker Boyer Bank	3/13: Sent a letter to the owner
WA4557	WALLA WALLA MILL CREEK	928 Sturm Walla Walla, WA 99362	200 Boyer Ave Walla Walla, WA 99362	46.059435 -118.307836	ASWC Radio Committee	3/13: Sent a letter to the owner
					Blue Mountain Community Church	Chosen Candidate

- Only the owners/representatives of the church-owned parcels (three parcels) responded, in the form of a telephone call to J5. See notes from April 2020 immediately above.
- Even if there is interest, further review and evaluation is done to determine if the property will be feasible. More research is done with the jurisdiction for development standards and process. A construction team evaluates the suitability of the site and additional studies are ordered. RF engineers determine (based on zoning) what height will work and how the facility will communicate within the network. A site may not pass after this further review even though it seems like a likely candidate and the property owner has shown initial interest. See details in the next two slides.

Attachment 3

# Walla Walla County

Attachment 2

Property Search Sales Search Map Search Map Administration

## Property Search Results > 25144 WHITMAN COLL BOARD OF TRUSTEES for Year 2018 - 2019

New Search

Details Map

Click on a title bar to expand or collapse the information.

### Property

Collapse All

#### Account

Property ID: 25144      Abbreviated Legal Description: AVENUE BLK LOT 1 TRACT 1 ELY 20' LOT 2 PLUS PTN VAC PARK ST LY TOTHE E

Parcel Number: 360720580001

Type: Real

Tax Area: 1 - OL-140-F

Open Space: N

Historic Property: N

Multi-Family Redevelopment: N

Township: 7

Range: 36

Agent Code:

Land Use Code

DFL

Remodel Property:

N

Section:

20

79

N

N

#### Location

Address: 280 BOYER AVE

Neighborhood: WW Downtown Core area #3

Neighborhood CD: 5343

Mapsc0:

Map ID:

#### Owner

Name: WHITMAN COLL BOARD OF TRUSTEES      Owner ID: 694  
Mailing Address: C/O TREASURERS OFFICE      % Ownership: 100.000000000000%  
345 BOYER AVE

WALLA WALLA, WA 99362

Exemptions: EX



Attachment 4

Please see flagged text on last page

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

Submitted to the City of Walla Walla, Washington  
Development Service Department

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J5 Infrastructure Partners on behalf of New Cingular Wireless PCS, LLC ("AT&T") 19801 SW 72<sup>nd</sup> Ave. Ste 200, Tualatin, OR 97062

**Representative:** J5 Infrastructure Partners  
23035 SE 263<sup>rd</sup> Street (Remote)  
Maple Valley, WA 98038  
**Contact:** Phillip Kitzes / 206.227.7445  
[pkitzes@j5ip.com](mailto:pkitzes@j5ip.com)

**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 collocate at an existing wireless facility ("WCF" or "facility"), WL4557 Walla Walla Mill Creek site, at the abovementioned address. The proposal allows for a new Wireless Communications Facility (WCF) to include a 65-foot monopole to meet AT&T's coverage objectives (providing outdoor, in vehicle, and in-building coverage) within a geographic area in high demand. The antennas will be in three (3) separate sectors with a RAD Center of 61 Feet. All ground equipment will be within a secured fenced 40'x40' lease area. There will be an emergency backup generator within the compound. The pole will be a monopine to provide stealth technology to the new antennas.



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

- Attachment 1 - Project Narrative (this document)
- Attachment 2 – WCF CUP Application (signed)
- Attachment 3 – Owner's Letter of Authorization
- Attachment 4 – SEPA Checklist
- Attachment 5 – Geotechnical Report
- Attachment 6 – NIER Report
- Attachment 7 – Environmental Phase 1
- Attachment 8 – Soil Resistivity Report
- Attachment 9 – Title Report
- Attachment 10 – FCC License
- Attachment 11 – Zoning Plan Set
- Attachment 12 – Photosims
- Attachment 13 – RF Justification
- Attachment 14 – ATT Compliancy Statement

As shown in AT&T's Application, AT&T's proposal meets the city's criteria for siting new wireless communications facilities and complies with all other applicable county, 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 the city approve this project as proposed and modify the approved conditional use permit to allow collocation.

**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

**2.1. Subject Property.** Detailed information regarding the subject property and proposed lease area is included in **Attachment 11, Zoning Drawings**.

### 2.1.1. Proposed Location; Use; Zoning.

- Again, the Property is zoned Neighborhood Residential (RN) The neighborhood is residences and larger vacant lots. The proposed monopine will stand 65 feet tall and the new antennas will be at 61 feet RAD (middle of antenna). The antennas and pole equipment will be hidden amongst the artificial branches and stems. The ground equipment and pole will be contained within a compound that will have security fencing (barbed wire) around it. Access will be from Sturm Avenue through the existing parking area. No vegetation is proposed to be removed under than for trenching for power/fiber as necessary.
- The existing use is a church with associated parking. There is native vegetation (grasses and trees) on the westerly edge—where the facility is to be located. (Note: The church property is comprised of 5 separate parcels.)

**2.1.2. Lease Area.**

- The lease area is a 40'x40' (1,600 SF) compound + a 12-foot access easement from Sturm Avenue. (the "Lease Area").

**2.1.3. Access and Parking.**

- Again, direct access is via the existing parking area in a twelve-foot (12') wide easement from Sturm Avenue.

**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. Given this is an unmanned 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 11, Zoning Drawings.****2.2.1. Antennas and accessory equipment.**

- The Three (3) Sectors on top of the water tank will contain the following AT&T equipment:
  - Nine (9) panel antennas
  - Twelve (12) remote radio head units (RRHs)
  - Two (2) surge protectors
  - One (1) Lightning Rod
  - All other associated and accessory equipment

**2.2.2. Ground equipment.**

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

**3. NETWORK COVERAGE AND SERVICES.**

- 3.1. Overview—AT&T 5G LTE.** AT&T is upgrading and expanding its wireless communications network throughout the Pacific Northwest, including the installation of the latest 5G technology at this proposed facility. 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.

#### 4. APPLICABLE LAW

**4.1. Local Codes.** Per staff direction, this requires a Type III Conditional Use Permit (CUP) Review for a Wireless Communication Facility.

**4.2. 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.

**4.2.1: 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 2018, 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."<sup>2</sup> 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.<sup>3</sup>

While an applicant is no longer required to show a significant gap in service coverage, in the Ninth Circuit, 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 Cir. 2009).

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<sup>1</sup> *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) ("FCC Order"). <sup>2</sup> *Id.* at ¶ 35. <sup>3</sup> *Id.* at ¶¶ 34-42.

- **Significant Gap.** Reliable in-building coverage is now a necessity and every community's expectation. Consistent with the abandonment of land line 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 (10<sup>th</sup> Cir. 2008); *MetroPCS, Inc. v. City and County of San Francisco*, 2006 WL 1699580, \*10-11 (N.D. Cal. 2006).
- **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 (9<sup>th</sup> Cir. 2005). These values are reflected by the local code's preferences and siting requirements.

**4.2.2. 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 Federal Communications Commission's RF emissions regulations. See Attachment 4 – RF Justification 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.

**4.2.3. 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.

**4.2.4. 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.*

5. **Wireless Communications Facilities (WCF): Conditional Use Permit (CUP) Type III Review.** As part of the review process, WCF requests must include a narrative responding to specific criteria outlined under **Section 20.216.040 (General review Criteria, decision process)** and **Section 20.216.050 (Conditions of approval)**. The following are the provisions for a CUP followed by a response (*italics*):

**Section 20.216.040 (General review Criteria, decision process).**

- A. The Hearing examiner shall make findings of the fact and state of reasons for granting the Conditional Use Permit. The findings of fact to include:

1. **The use will not endanger the public health or safety if located and developed where proposed, and that the use will not allow conditions which will tend to generate nuisance conditions to adjoining properties;**

*Response: This is an-manned facility that is located away from the public, and it will be surrounded by vacant and undeveloped land. The compound will be locked and fenced with security wire to discourage intrusions and/or create a nuisance by entering the facility without permission. (Note: The security fencing will be 6' plus 1' of barbed/razor wire, or 7' tall. Per WWMC 20.110.040, this may require a separate building permit.)*

*Per WWMC 20.110.070, this type of fencing is not allowed to be constructed or remain when located on a property line, abutting streets, alleys, public right-of-way, etc. The compound is off the property line; thus, this type of fencing is permissible. (Note the minimum setback is 65', or the height of the pole.) WWMC 20.110.080 states the maximum height of a fence in residential zones is 5 feet (front yards) or 6 feet rear and side yards). However, this is more applicable to perimeter fencing that provides privacy to the residents. The additional 1 foot (barbed/razor wire) allows the necessary security and a strong discouragement to enter the facility.*

2. **That the location and character of the use, if developed according to the plans submitted and approved or conditionally approved, will be compatible and in harmony with the area in which it is to be located;**

*Response: As proposed, this will be a 65-foot monopine that is compatible in size and species to what is existing at the property and surrounding neighborhood. Existing vegetation will help screen the facility from the adjoining residences along the westerly property line (minimum 65 feet away, or the required setback). Mature vegetation and the church buildings will provide a screen to the north and east; with the closest residences are over 400 feet away. The use, camouflaged as a tree, is compatible with the neighborhood and will blend in nicely while providing a needed service.*

3. **That Conditional Use Permit approval would be in general conformity with the Walla Walla Area Comprehensive Plan as amended;**

*Response: Telecommunications are discussed in the Capital Facilities and Utilities (CFU) Section of the Comprehensive Plan. CFU Policy 1.3 requires the City's WCF ordinance is updated to account for new technology while remaining consistent with the community's vision and needs. (Note: The city is currently in the process of updating their WCF Code.)*

*CFU Policy 1.4 states that telecommunications services are provided at a level that enables residents and businesses to compete in the global marketplace while minimizing negative impacts on the aesthetic character of the community. This proposal is providing "gap" coverage and the ability for the residents to connect to a viable wireless service and grow their business. The proposal deploys stealth technology (monopine) at a height (non-obtrusive) and "in-kind" to the natural setting; thus, minimizing the impacts to the neighborhood.*

4. **That the use meets all required conditions and specifications set forth in the zone where it proposes to locate.**

*Response: The new ordinance has provisions for locating a WCF under Section 20.170.050. They are not allowed in the RN, unless they are located on a non-residential use property AND designed using stealth technology. Furthermore, Per Section 20.170.070(D), the height may not exceed sixty-five feet (65'). This proposal meets all these requirements. The property is owned by a church and the applicant is proposing a 65-foot monopine; thus, designed using stealth technology.*

**Section 20.216.050 (Conditions of approval).**

The Hearing Examiner, to ensure that a CUP meets the general criteria, may set forth conditions of approval that are specific to the project. The Code lists these possible conditions to support the decision. As it applies to this proposal, the primary points are height, size, screening, lighting, and location. Protection of existing vegetation and trees are encouraged.

*Response: Again, the new Code allows a maximum height of 65'—as proposed. The pole will be stealth (monopine) and located towards the rear of the property and a minimum of 65' from the residences along the westerly property line. No lighting is proposed. Finally, no trees will be removed to install the facility; rather, they will help provide a screen to the project.*

→ 6. **Alternative Site Analysis.** It is important to note that there have been several attempts to locate a facility within the Walla Walla area. The RF engineers produce “search rings”, or places to look that are ideal to provide the gap coverage they need within the service network. It is our responsibility to identify properties based on zoning and land use that would be best to provide the necessary coverage. Once this is identified, there needs to be a willing property owner for the site.

The search began with a ring was about a mile west of this site. Although there may have been more suitable sites (zoning and uses), there were no owners willing to have a facility on their property.

The ring was re-issued to the east—about where this site is located. Again, there were issues with zoning and the inability to find a landowner willing to enter into a lease. This ring was expanded out further in all directions, which is where the church property was identified.

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](mailto:pkitzes@j5ip.com)) if there are any questions or comments.

**J5 INFRASTRUCTURE PARTNERS**

*Phil Kitzes*

PHILLIP KITZES  
Project Manager I

Attachment 5

**City of Walla Walla** My Exhibit M  
A Wonderful Place to Live, Work, and Play

Home ▲ Permits and Inspections: Parcel(s) Logon Help Contact

BLD-20-1272

Applied 12/22/2020 Approved 02/02/2021 Issued 02/26/2021 Final 02/10/2022 Expires 08/09/2022

Type: WIRELESS COMMUNICATION CO-LOCATION Status: final

Permit Address: 126 W POPLAR ST WALLA WALLA WA 99362-2847  
Permit Description: Modifications to facility. Install wireless communication equipment on existing tower on behalf of AT&T  
Applicant: J5 INFRASTRUCTURE PARTNERS Owner: N  
Owner: 129 WEST ALDER PROPERTY LLC

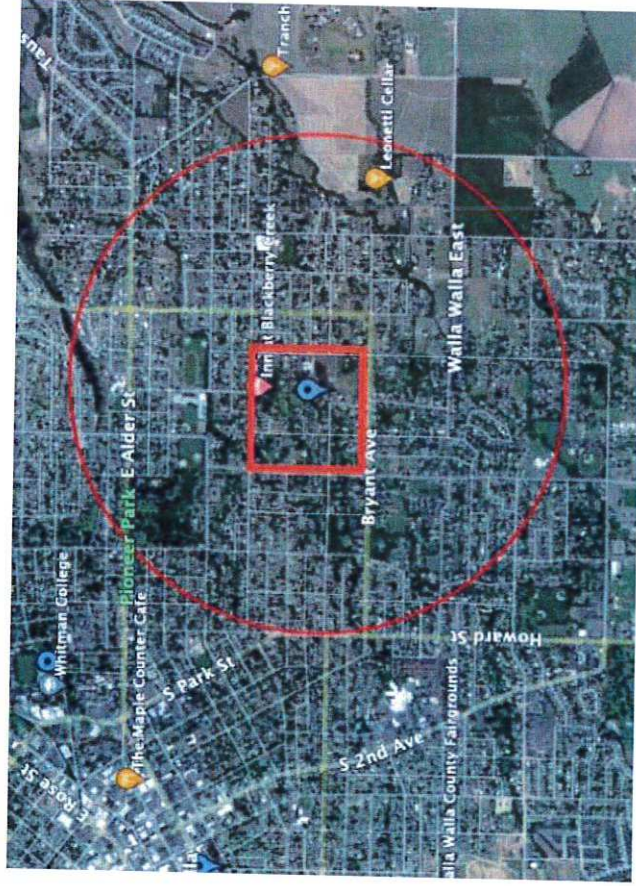
Viewing Parcel(s) Select the information you would like to view.

**Permit Parcels**

Parcel #	Address
360720771506	126 W POPLAR ST WALLA WALLA WA 99362-2847
360720771508	126 W POPLAR ST WALLA WALLA WA 99362-2847



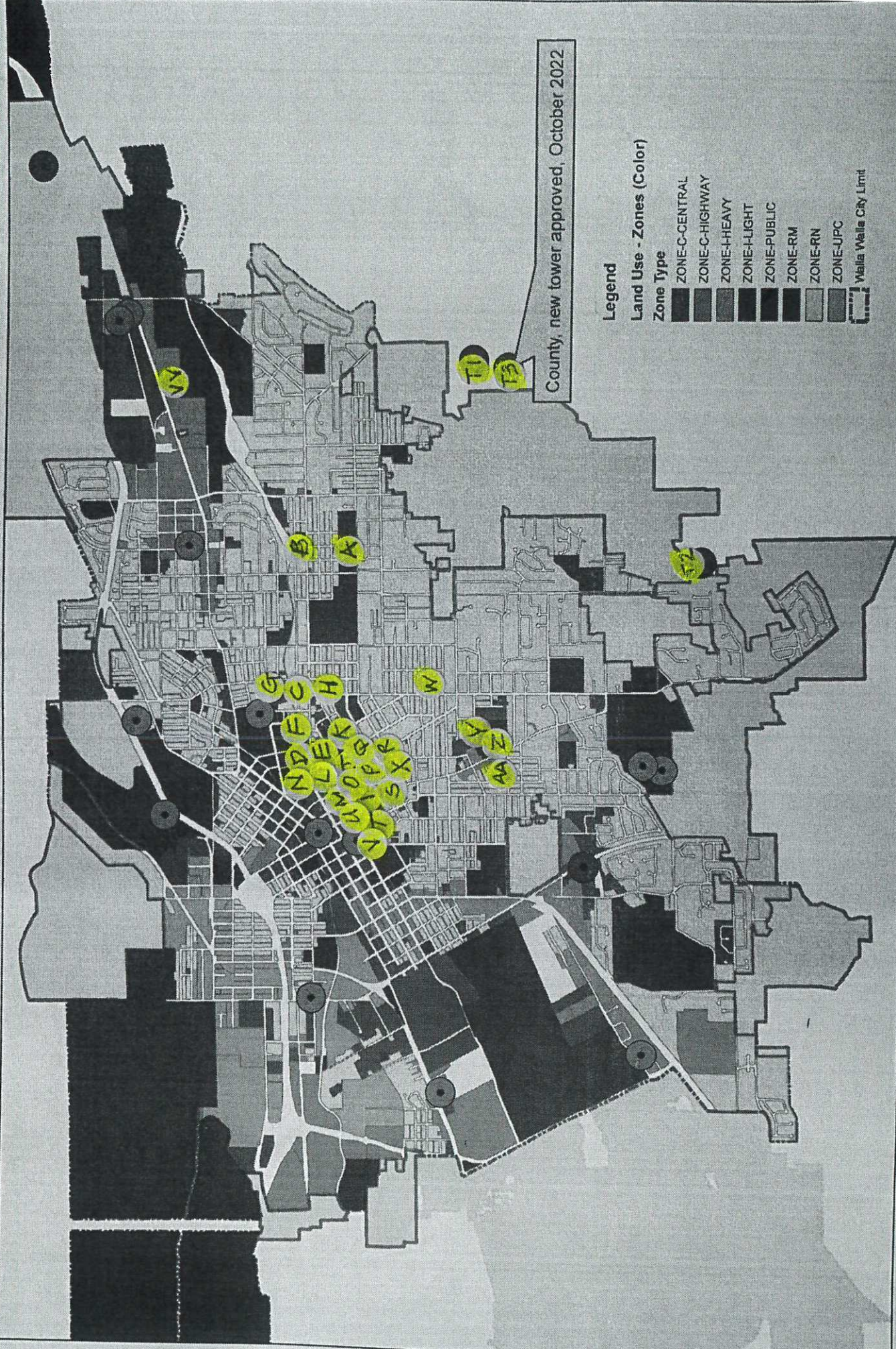
# Search Ring & Coverage Objectives



- The primary objective of the proposed new Facility is to fill a significant coverage gap in the City of Walla Walla. Currently, portions in and around Walla Walla East have minimal to no 4G voice service.
- The targeted service area is within the red circle. In order to fill the current gap in coverage within this area, AT&T needed to secure a location near the center of the Search Ring (search ring = red square). Please also see Attachment 15 – RF Justification.
- Moving the Facility toward the edges of the Targeted Service Area in any direction could cause interference with other existing AT&T sites and limit the improvement in services near the center of the circle where there currently exists a significant coverage gap.

Map	Buildings with possible colocation opportunities	
A	450 Bridge St	Pioneer Middle School
B	1315 E Alder	Edison Middle School
C	717 Alder	Amazing Grace Church
D	150 Park	Fouts Center
E	109 S Palouse	Carnegy Center
F	364 Boyer	Baker faculty Center
G	534 Boyer	Odd Fellows
H	13 S Clinton	Clinton Court Apartments
I	2 East Birch	Washington Apartments
J	111 East Birch	YWCA
K	340 S Park	YMCA
L	73 Palouse	1st Congregational Church
M	102 S 1st	Armory Building
N	66 S Palouse	Covenant Presbyterian Church
O	216 S Palouse	Pacific NW Family Law
P	248 Birch	Birchway Apartments
Q	323 Catherine	St Pauls Episcopal Church
R	352 1st Ave	Brentwood Apartments
S	325 1st Ave	Walla Walla Presbyterian Church
T	214 1st Ave	Windemere
U	112 S First	Walla Walla Union Bulletin
V	103 S 2nd	Lloyds building
W	1001 Howard	Community Church
X	427 1st St	Apartments
Y	1025 S 2nd	Providence South Gate
Z	1111 S 2nd	Providence medical group
AA	1132 S 2nd	Evangelical Baptist Church
VV	<b>Vacant Land</b>	Off Isaacs between Tausick Way & Wilbur About 50-100 acres of City owned ground Why was this never considered?
T1	<b>Towers</b>	<b>Leonetti tower</b> (existing) has colocation opportunities
T2		<b>Kendall Rd Tower</b> (existing)
		Co-location opportunities unknown at this time.
T3		<b>Dish Tower</b> (not built yet) is shown in RF analysis report

WCF City of Walla Walla

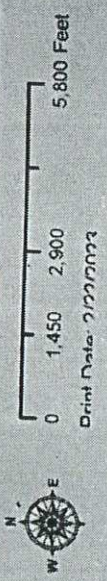


**Legend**

**Land Use - Zones (Color)**

Zone Type	Color
ZONE-C-CENTRAL	[Dark Grey]
ZONE-C-HIGHWAY	[Medium Grey]
ZONE-H-HEAVY	[Light Grey]
ZONE-L-LIGHT	[Very Light Grey]
ZONE-P-PUBLIC	[White]
ZONE-RM	[Lightest Grey]
ZONE-RN	[Medium-Light Grey]
ZONE-LJPC	[Medium-Dark Grey]

Walla Walla City Limit



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