

**STATEMENT OF CODE COMPLIANCE
WCF CONDITIONAL USE APPLICATION
BR0306 Bainbridge Lynwood Center**

Submitted to City of Bainbridge Island, Washington
Planning and Community Development

AT&T's proposal for a new wireless communication facility to be collocated on an existing structure (KPUD water tank) ("WCF" or "Facility") in the Residential (R-5) zone is subject to and complies with the following applicable provisions of the Bainbridge Island Municipal Code ("BIMC"), which are addressed in this Statement of Code Compliance in the following order:

- I. **WIRELESS COMMUNICATION FACILITIES**
 Chapter 18.10 Use Regulations—Wireless Communication Facilities

- II. **ADDITIONAL DEVELOPMENT STANDARDS**
 Chapter 18.12 Dimensional Standards
 - **18.12.020 Tables of dimensional standards**

- III. **REVIEW PROCEDURES**
 Chapter 2.16 Land Use Review Procedures
 - **2.16.110 Major conditional use permits.**

PLEASE NOTE: AT&T's responses to applicable provisions are indicated below in ***bold italicized blue text***. Any reference to an "Attachment" is in reference to an attachment included in AT&T's Application for the proposed Facility.

I. WIRELESS COMMUNICATION FACILITIES

Chapter 18.10 Use Regulations—Wireless Communication Facilities

18.10.010 General provisions.

A. This chapter addresses the issues of location and appearance associated with wireless communication facilities ("WCFs"). It provides adequate siting opportunities through a wide range of locations and options which minimize safety hazards and visual impacts sometimes associated with wireless communications technology. The chapter encourages siting of facilities on existing buildings or structures, co-location of several providers' facilities on a single support structure, and visual mitigation measures to maintain neighborhood appearance and reduce visual clutter in the city.

B. Applicability.

1. Applicability. The provisions of this chapter shall apply to all new WCFs located within the boundaries of the city, and for any modification to an existing WCF that is not governed by Chapter 18.11 BIMC; provided, that this chapter shall not apply to small wireless facilities that are permitted under Chapter 19.10 BIMC and are subject to Chapter 18.10A BIMC.

Applicant Response: AT&T's proposed new WCF is subject to the provisions of this chapter.

2. Permit Required. Any person who desires to place any WCF within the boundaries of the city must apply to the city for the appropriate wireless communication facility permit.

Applicant Response: AT&T's application includes a Master Land Use Application form for major conditional use permit (CUP) and Wireless Communication Facility permit approval.

3. Lease Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the WCF will be located upon a city-owned structure, or upon non-right-of-way property which is either city-owned or city-leased, the applicant shall be required to enter into a lease agreement with the city for the use of the city property.

Applicant Response: Not applicable.

4. Master Permit Required. In addition to the requirement of obtaining the appropriate wireless communication facility permit, if all or a portion of the WCF will be located within the city's right-of-way, the applicant shall be required to obtain a master permit, consistent with Chapters 19.02 and 19.04 BIMC, from the city for the use of the city's right-of-way.

Applicant Response: Not applicable.

18.10.020 Definitions.

A. "Antenna(s)" means any system of electromagnetically tuned wires, poles, rods, reflecting discs or similar devices used to transmit or receive electromagnetic waves between terrestrial and/or orbital based points, including, but not limited to:

1. Omni-directional (or "whip") antenna(s), which transmits and receives radio frequency signals in a 360-degree radial pattern;
2. Directional (or "panel") antenna(s), which transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees;
3. Parabolic antenna(s) (or "dish" antenna(s)), which is a bowl-shaped device for the reception and/or transmission of communications signals in a specific directional pattern; and
4. Ancillary antenna(s), which is an antenna less than 12 inches in its largest dimension and is not directly used to provide personal wireless communications services, such as a global positioning satellite (GPS) antenna.

- B. "Co-location" means placing and arranging multiple providers' antennas and equipment on a single support structure or equipment pad area.
- C. "Electromagnetic field" or "EMF" means the field produced by the operation of equipment used in transmitting and receiving radio frequency signals.
- D. "Equipment facility" means any structure used to house electronic equipment, cooling systems and back-up power systems associated with a WCF, including shelters, enclosures, cabinets and other similar structures.
- E. "Facility I" means a wireless communication facility consisting of an antenna that is either: (1) four feet or less in height and with an area of not more than 580 square inches in the aggregate; or (2) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.
- F. "Facility II" means a wireless communication facility consisting of up to three antennas, each of which is a microcell with associated equipment facilities six feet or less in height and no more than 48 square feet in floor area.
- G. "Support structure" means any structure, designed and constructed specifically to support an antenna array, including a monopole, self-supporting (lattice) tower, guy-wire support tower and any other similar structures. Any device (attachment device) used to attach a WCF to an existing structure or building (attachment structure) shall be excluded from the definition of and regulations applicable to support structures.
- H. "Wireless communication facility" or "WCF" means an unstaffed facility for the transmission and/or reception of radio frequency, microwave or other signals for commercial communications purposes, including and typically consisting of antennas, equipment shelter or cabinet, transmission cables, a support structure required to achieve the necessary elevation, and reception and transmission devices and antennas.
- I. "Wireless communication services" means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal laws and regulations.

18.10.030 Permit required.

- A. A wireless communication facility (WCF) permit shall be required for the location, installation or construction of any new WCF, and for any modification to an existing WCF that is not governed by Chapter 18.11 BIMC.

Applicant Response: AT&T's Application for the proposed Facility includes a Master Land Use Application for major conditional use permit and Wireless Communication facility permit approval.

- B. The planning and community development department may grant permit approval for:
1. A facility I or II, or a monopole or lattice tower located in a nonresidential zone that does not exceed the maximum height of the zone; or

2. A facility I or II in a multifamily, business, commercial, or town center zone on an existing building or structure; provided, that the facility is no higher than 15 feet above the existing building or structure or the permitted height for the zone, whichever is higher; or

3. A facility I or II in a residential zone on a nonresidential building or structure; provided, that the facility is no higher than 15 feet above the permitted height in the zone.

Applicant Response: AT&T's proposed Facility does not meet any of the above Facility I or Facility II criteria.

C. All other WCFs require conditional use permit review and approval by the city hearing examiner.

Applicant response: AT&T has submitted a Master Land Use Application for major conditional use permit and wireless communication facility permit approval for the proposed Facility.

18.10.040 Application requirements.

All applications for a WCF must include, at a minimum:

A. A diagram or map showing the primary viewshed of the proposed WCF;

Applicant response: Please see Attachment 6 – Viewshed Map.

B. A map showing the coverage area of the proposed WCF at the requested height;

Applicant response: Please see Attachment 3 – AT&T RF Justification.

C. An explanation of the need for the proposed WCF, including an analysis of alternative sites that supports the selected site over other possible locations, particularly locations in a higher priority zone;

Applicant response: Please see Attachment 1- Project Narrative and Attachment 3 – RF Justification.

D. An inventory of other WCF sites operated by the applicant that are either in the city or within one mile of its borders, including specific information about location, height and design of each facility;

Applicant response: Please see Attachment 3 – RF Justification..

E. A site/landscaping plan showing the specific placement of the WCF on the site; showing the location of existing structures, trees and other significant site features; and indicating type and locations of plant materials used to screen WCF components;

Applicant response: Please see Attachment 9—Zoning Drawings, which show specific placement of the WCF, location of existing structures, trees, and other significant site features. Kitsap Public Utility District (KPUD) has installed a 6ft chain link fence around the perimeter of the subject property, along with any required landscaping. This proposed fencing and the existing building will effectively

screen the ground equipment. Additional plant materials are not proposed for screening WCF components as the existing structures, mature trees and topography effectively screen the Facility. As shown in Attachment 9—Zoning Drawings, Attachment 6—Viewshed Map, and Attachment 7—Photo Simulations, the existing mature trees and area topography screen the Facility from views from the east, south, and west. The existing mature trees and building also effectively camouflage the ground equipment and antennas from views from the north. Additionally, KPUD requested no additional landscaping within the site due to ground space constraints.

F. Documentation verifying that the proposed WCF complies with any applicable regulations and specifications in accordance with the Federal Aviation Administration (FAA); and

Applicant response: Please see Attachment 5 – FAA TOWAIR Determination.

G. Applications for facilities other than facility I or facility II shall also contain:

1. Photo simulations of the proposed WCF from affected properties and public rights-of-way at varying distances; and

Applicant response: Please see Attachment 7 – Photo Simulations.

2. Documentation of efforts to co-locate on existing facilities.

Applicant response: Please see the alternative site analysis in Attachment 1—Project Narrative and Attachment 3 – AT&T RF Justification.

18.10.050 Permit conditions.

Each permit issued by the city shall be conditioned to:

- A. Permit term;
- B. Require that construction or installation of the WCF must commence within one year from the date of the permit, with opportunity for a one-year extension; otherwise, the permit shall be revoked without further action of the city and the rights and privileges appurtenant to the permit shall be void;
- C. Require the permittee to allow co-location of proposed WCFs on the permittee's site, unless the permittee establishes to the city's satisfaction that co-location will technically impair the existing permitted use(s) to a substantial degree;
- D. Require the permittee to maintain the WCF in a state of good repair and to maintain or replace, if necessary, vegetation and landscaping required as a condition of approving the permit;
- E. Require the permittee to notify the city of any sale, transfer, assignment of a site or WCF within 60 days of such event; and

F. Require the permittee to comply with the provisions of this title and all other applicable city ordinances and rules and regulations.

Applicant response: AT&T acknowledges and understands the above permit conditions.

18.10.060 Permit enforcement.

The planning and community development director, or that officer's designee, shall enforce the provisions of this chapter under the code enforcement provisions of the Bainbridge Island Municipal Code.

Applicant response: AT&T acknowledges and understands this provision.

18.10.070 Prioritized locations.

The following sites are prioritized in order of preference for locating proposed WCFs and permits shall be issued so that WCFs will be located on the highest priority site feasible:

- A. Co-location.
- B. Public buildings and structures located in nonresidential zones.
- C. Buildings and structures in business and commercial zoned sites used for research and development, commercial and business uses.
- D. Buildings and structures in residential zones not used entirely for residential use; provided, that WCFs will not be sited on vacant residential lots.

Applicant response: AT&T's proposed WCF is located on a structure (KPUD water tank) in a residential zone. Please see the alternative site analysis in Attachment 1—Project Narrative and Attachment 3—AT&T RF Justification for additional discussion as to why locating the proposed WCF at a higher priority site is not feasible.

18.10.080 Development standards.

All WCFs shall be constructed or installed according to the following development standards:

- A. WCFs must comply with applicable Federal Communications Commission (FCC), Federal Aviation Administration (FAA), state, and city regulations and standards;

Applicant response: AT&T intends to comply with applicable Federal Communications Commission (FCC), Federal Aviation Administration (FAA), state, and city regulations and standards. Please see AT&T's responses in this Statement of Code Compliance to demonstrate AT&T's compliance.

- B. Antennas shall be located, mounted and designed so that visual and aesthetic impacts upon surrounding land uses and structures are minimized, and so that they blend into the existing

environment. Panel and parabolic antennas shall be screened from residential views and public rights-of-way;

Applicant response: AT&T has designed the proposed Facility to best blend in with the existing environment. The antenna mounts, antennas, and associated equipment will be painted a neutral, non-reflective color to blend in with the surrounding trees. As shown in Attachment 9—Zoning Drawings and Attachment 7—Photo Simulations, the existing mature trees and topography to the east, south, and west and the existing building and trees to the north effectively screen the Facility from any visual or aesthetic impacts. The existing mature trees on the site also help to screen the ground equipment and camouflage the antennas to blend into the environment to minimize any visual and aesthetic impacts. Any additional screening of the antennas is not possible.

C. WCFs must be screened or camouflaged employing the best available technology, such as compatible materials, location, color, artificial trees and hollow flagpoles, and other tactics to minimize visibility of the facility from public streets and residential properties.

1. A freestanding WCF shall not be allowed whenever an existing structure can meet technical and network location requirements;

Applicant response: Not applicable.

2. Monopoles and lattice towers constructed in accordance with subsection H of this section shall be the only freestanding support structures allowed in the city, and are the preferred structures where any support structure is necessary; provided, that site location and development shall preserve the preexisting character of the site as much as possible;

Applicant response: Not applicable.

3. A freestanding WCF shall comply with all required setbacks of the zoning district in which it is located;

Applicant response: Not applicable.

4. WCF shall be designed and placed or installed on the site in a manner that takes maximum advantage of existing trees, mature vegetation, and structures by:

- a. Using existing site features to screen the WCF from prevalent views; and
- b. Using existing site features as a background in a way that the WCF blends into the background;

Applicant response: As noted, AT&T has designed the proposed Facility to take maximum advantage of existing structures, trees and mature vegetation to screen the proposed WCF

from prevalent views and as a background to best blend the Facility into the existing environment. As shown in Attachment 9—Zoning Drawings, Attachment 6—Viewshed Map, and Attachment 7—Photo Simulations, the antenna mounts, antennas, and associated equipment will be painted a neutral, non-reflective color to blend in with the surrounding trees. The existing mature trees and topography to the east, south, and west effectively screen the Facility from any visual or aesthetic impacts. From the north, the existing building and mature trees on site serve as a background to help screen and camouflage the ground equipment and antennas to best blend into the environment to minimize any visual and aesthetic impacts.

5. As a condition of permit approval, the city may require the applicant to supplement existing trees and mature vegetation to screen the facility;

Applicant response: AT&T acknowledges and understands this provision. As noted, and as shown in Attachment 9—Zoning Drawings, Sheet A2.0, there is not sufficient space on the site to install any significant amount of additional vegetation.

6. A WCF shall be painted either in a nonreflective color or in a color scheme appropriate to the background against which the WCF would be viewed from a majority of points within its viewshed, and in either case the color must be approved by the city as part of permit approval;

Applicant response: AT&T proposes to paint the antenna mounts, antennas, and associated equipment a neutral non-reflective color to best blend in with the surroundings when viewed from a majority of points within its viewshed. Please see Attachment 6—Viewshed and Attachment 7—Photo Simulations. AT&T acknowledges, understands, and intends to comply with final color approved by the city as part of permit approval.

D. Equipment facilities shall be placed underground if applicable, or, if above ground, shall:

1. Be screened from any street and adjacent property with fencing, walls, landscaping, structures or topography or a combination thereof; and

Applicant response: Due to the topography, current land use and KPUD expansion plan, locating the equipment underground is not feasible. The ground equipment for the proposed Facility will be located above ground and will be screened from adjacent streets and properties by the existing building, mature trees and vegetation on the site and the surrounding area. Additionally, the equipment will be painted to blend with the surroundings. Please see Attachment 9—Zoning Drawings and Attachment 7—Photo Simulations.

2. Not be located within required building setback areas;

Applicant response: The proposed Facility complies with the setback requirements of BIMC 18.12.010 (Front: 96'10", Side-West: 52'7", Side-East: 60'6", Rear: 72'2"). Please see Attachment 9-Zoning Drawings.

E. Security fencing shall:

1. Not exceed six feet in height;
2. Be screened from view through the use of appropriate landscaping materials; and
3. If it is a chain-link fence, be camouflaged with appropriate techniques and painted or coated with a nonreflective color;

Applicant response: Pursuant to the request of KPUD, AT&T is not proposing any security fencing around the ground equipment. KPUD has installed fencing around the perimeter of the subject property pursuant to this section.

F. The city shall consider the cumulative visual effects of WCFs mounted on existing structures and/or located on a given permitted site in determining whether the additional permits can be granted so as to not adversely affect the visual character of the city;

Applicant response: AT&T acknowledges and understands this provision.

G. A WCF shall not be used for mounting signs, billboards or message displays of any kind;

Applicant response: AT&T is proposing to post only those signs required by the FCC, FAA, and/or pursuant to state and local regulations and standards.

H. In addition to the other development standards of this section, monopoles and lattice towers shall:

[Remainder of this section OMITTED as NA.]

18.10.090 Electromagnetic field (EMF) standards compliance.

A. All WCFs shall be operated in compliance with federal standards for EMF emissions. Within six months after the issuance of its operational permit, the applicant shall submit a project implementation report which provides cumulative EMF power densities of all antennas installed at the subject site. The report shall quantify the EMF emissions and compare the results with established federal standards. Said report shall be subject to review and approval by the city for consistency with the project proposal report and the adopted federal standards. If on review the city finds that the WCF does not meet federal standards, the city may revoke or modify the permit. The applicant shall be

given a reasonable time based on the nature of the problem to comply with the federal standards. If the permit is revoked, then the facility shall be removed.

Applicant response: AT&T acknowledges, understands, and intends to comply with this provision.

B. All WCFs shall be operated in a manner that the WCF will not cause localized interference with the reception of area television or radio broadcasts, garage door openers, portable phones and other similar FCC approved devices. If on review of a registered complaint the city finds that the WCF interferes with such reception, the city may revoke or modify the permit. The applicant shall be given a reasonable time based on the nature of the problem to correct the interference. If the permit is revoked, then the facility shall be removed.

Applicant response: Applicant acknowledges, understands, and intends to comply with this provision. Pursuant to Attachment 4—AT&T RF Statement of Compliance, the proposed Facility should not interfere with other communications facilities.

18.10.100 Facility removal.

A. A WCF shall be removed within 90 days of the date the site's use is discontinued, it ceases to be operational, or the permit is revoked; or if the facility falls into disrepair and is not maintained, within 90 days of a notice from the city to effect repairs and maintenance to the satisfaction of the city. The operator of a WCF shall notify the city upon the discontinued use of a particular facility.

B. Should the operator fail to remove the WCF as required herein, and the property owner fails to remove the WCF within 90 days of the date the city notifies the property owner to remove the WCF, then the WCF shall be a nuisance and subject to appropriate legal proceeding.

Applicant response: AT&T acknowledges, understands, and intends to comply with the above provisions.

II. ADDITIONAL DEVELOPMENT STANDARDS

Chapter 18.12 DIMENSIONAL STANDARDS

18.12.020 Tables of dimensional standards.

Tables 18.12.020-2 and 18.12.020-3 set forth applicable dimensional standards. Where a property is located in more than one zone district, units permitted by density calculations within each zone district must be constructed on the portion of the property located within that zone district and required setbacks for each zone district must be met. Permitted densities are not "blended" across the zone district line.

Table 18.12.020-1. Repealed by Ord. 2019-03.

Table 18.12.020-2 Standard Lot Dimensional Standards for Residential Zone Districts

[Numbers in brackets indicate additional requirements listed at the end of the table]

ZONING DISTRICT DIMENSIONAL STANDARD	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14
MAXIMUM BUILDING HEIGHT [4]										
Note: Bonus may not be available in the shoreline jurisdiction										
All lots										
Base	30 ft.	30 ft.		25 ft.				30 ft.	35	
Bonus for Nonresidential Uses If Conditional Use Permit Conditions Met	35 ft.	35 ft.		30 ft.				35 ft.	40 ft.	40 ft. See BIMC 18.12.030 B
Exemption	Alternative height limits may apply for nonresidential uses if additional conditional use permit provisions of BIMC Title 2 are met. Some encroachments through height limits are permitted under BIMC 18.12.040.									
Shoreline Jurisdiction	See Table 16.12.030-2, Dimensional Standards Table, and BIMC 18.12.030 F, Shoreline Structure Setbacks.									

[4] For community and educational facilities (as listed in Table 18.09.020), spires, towers and other vertical features with horizontal cross-sections no more than five percent of the footprint of the primary structure may have a maximum height of 10 feet above the maximum base height, and shall be reviewed through a conditional use permit.

Applicant response: *The proposed Facility is located in the R5 zone. The water tank to be used for collocation is 35'7" in height and the antenna tip height of AT&T's proposed antennas to be installed on the water tank is 55'7". Pursuant to Table 18.12.020-2, because the proposed WCF will extend beyond the 30ft height limit in the R-5 zone, AT&T is seeking an exemption for an alternative height limit for nonresidential uses by meeting the additional permit provisions for a major conditional use permit pursuant to BIMC 2.16.110*

III. REVIEW PROCEDURES

Chapter 2.16 LAND USE REVIEW PROCEDURES

2.16.110 Major conditional use permit.

A. Purpose. A major conditional use permit is a mechanism by which the city may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible the proposal shall be denied.

B. Applicability.

1. As determined by the director, a major conditional use permit shall be secured from the city prior to establishing or expanding a use according to situations that include, but are not limited to: (a) the proposed use or expansion covers 50 percent or greater of the total lot area; (b) the proposed use is accessed by a local or private road; (c) the proposed use or expansion generates more than 36 total trips per day; (d) the proposed use or expansion contains four or more units in a multifamily dwelling; or (e) requests for additional nonresidential building height pursuant to Table 17.12.070-1, 18.12.020-2 or 18.12.020-3.

Applicant Response: Pursuant to BIMC 18.10.030.C and AT&T's request for additional nonresidential building height under Table 18.12.020-2, AT&T's proposed Facility requires a major conditional use permit.

2. Any activity that is exempt from the request for a minor conditional use permit pursuant to BIMC 2.16.050.B.2 is also exempt from the request for a major conditional use permit.

Applicant Response: Not applicable.

3. The provisions of this section supplement those of BIMC 2.16.020 and 2.16.100 when the application is for a conditional use permit. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.100 and this section, the provisions of this section shall govern.

Applicant Response: AT&T acknowledges and understands this provision.

4. Temporary uses and events may be exempt from some or all of the major conditional use permit requirements if the director determines that their impacts on the immediately surrounding area will be minimal.

Applicant Response: Not applicable.

C. General Procedures. Major conditional uses shall be approved through the general procedures applicable to quasi-judicial decisions by the hearing examiner in BIMC 2.16.100 except as described below.

Applicant Response: AT&T acknowledges and understands this provision.

D. Review Procedures – Proposal Stage. Review of major conditional use permit proposals shall include all of the following:

1. Conceptual Proposal Review Meeting. The conceptual proposal review meeting is a means of screening proposals in their earliest stages of design before proponents are committed to a particular design. The conceptual proposal meeting is an opportunity to ensure that the proponent understands the objectives of the review process, design guidelines, and

comprehensive plan goals and policies. This early touch allows review bodies to dialogue in an informal manner with the applicant, review the design guidelines and comprehensive plan goals and policies applicable to the site, and explore design concepts and/or options. It is also a means for staff to acquaint the prospective applicant with the procedural steps for subdivision review. The conceptual proposal review meeting will be held at a meeting of the design review board. Submittal requirements are described in the administrative manual, and include a statement of intent, site analysis, and context map. An applicant may request a waiver from the conceptual proposal review meeting if the applicant demonstrates knowledge and understanding of the city's permit processing procedures.

Applicant Response: This requirement has been waived. Please see Attachment 2(a)-Waiver of Conceptual Design.

2. Design Guidance Review Meeting. The design guidance review meeting is intended to provide input and guidance to an applicant on consistency with applicable design guidelines and comprehensive plan goals and policies, including recommendations for how the project could be revised to achieve greater consistency. The applicant should also make known the potential need and rationale for any departure from the design guidelines or the city of Bainbridge Island design and construction standards and specifications. The design guidance review meeting will be held at a meeting of the design review board. Requirements are described in the administrative manual and include a schematic design and completed design guidelines checklist.

Applicant Response: This requirement has been waived. Please see Attachment 2(a)-Waiver of Conceptual Design.

3. Preapplication Conference. The applicant shall participate in a preapplication conference in accordance with the provisions and requirements in BIMC [2.16.020](#).I. As part of the preapplication phase, applicants are required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32, except that the community meeting shall be held at a planning commission meeting. The preapplication conference application shall be provided to the design review board.

Applicant Response: A preapplication conference was held on February 25, 2021.

E. Review Procedures – Application Stage. Review major conditional use permit applications shall include all of the following:

1. Application. An applicant may submit an application for a major conditional use permit at any time after completion of the required steps in subsection D of this section or approval of a waiver in accordance with BIMC 2.16.020.I.3 or I.4 or subsection D.1 of this section. The applicant shall

submit a complete application with all required submittal requirements listed in the administrative manual.

Applicant Response: AT&T has completed the steps in subsection D as outlined above. Accordingly, AT&T has submitted a Master Land Use Application major conditional use permit and Wireless Communication Facility permit approval for the proposed WCF, with all required submittal requirements listed in the City's administrative manual.

2. Review and Recommendation by Design Review Board.

- a. The purpose of the design review board review and recommendation meeting is to review a proposed project for compliance with applicable design guidelines and to ensure that the project reflects any revisions recommended by the design review board at the design guidance review meeting. The design review board will also consider any requested departures from the design guidelines.
- b. The design review board will forward written findings, their determination of the project's consistency with the design guidelines, the design guideline checklist, and their recommendation, including any conditions, to the staff planner. Any condition attached to a recommendation must be intended to achieve consistency with one or more specific design guidelines. The design review board's written findings will be included in the staff report transmitted to the director or planning commission.
- c. A design review board recommendation is not a final decision and therefore there is no appeal of the recommendation.

Applicant Response: AT&T acknowledges and understands the above provisions.

3. Review and Recommendation by Planning Commission.

- a. In the case of a major conditional use permit application, the planning commission shall review the application prior to the review and final decision by the director.
- b. The purpose of the planning commission review and recommendation meeting is to review a proposed project for consistency with applicable design guidelines, BIMC Title [17](#), and the comprehensive plan.
- c. The planning commission shall consider the application at a public meeting where public comments will be taken. The planning commission shall recommend approval, approval with conditions or denial of an application. In making a recommendation, the planning commission shall consider the applicable decision criteria, all other applicable law, and the recommendation of the design review board. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied.

- d. The design review board's recommendation shall hold substantial weight in the consideration of the application by the planning commission. Any deviation from the recommendation shall be documented in their written findings of facts and conclusions.
- e. The planning commission will forward its written findings of facts and conclusions, their determination of the project's consistency with the comprehensive plan, and their recommendation, including any conditions attached by the planning commission and design review board, to the staff planner. The planning commission's written findings will be included in the staff report transmitted to the director.
- f. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation.

Applicant Response: AT&T acknowledges and understands the above provisions.

4. Review by Director.

- a. The director shall review the application materials, staff report, and the recommendations of the planning commission and shall prepare a report to the hearing examiner recommending approval, approval with conditions, or disapproval of the application.
- b. The planning commission's recommendation shall hold substantial weight in the consideration of the application by the director. Any deviation from that recommendation shall be documented in the director's report.

AT&T acknowledges and understands the above provisions.

5. Review and Public Hearing with Hearing Examiner.

- a. The hearing examiner shall consider the application materials and the director's recommendation at a public hearing following the procedures of BIMC 2.16.100.C and applicable provisions of BIMC 2.16.020.
- b. The hearing examiner shall make compliance with the recommendations of the planning commission a condition of approval, unless the hearing examiner concludes that the recommendations:
 - i. Reflect inconsistent application of design guidelines or any applicable provisions of this code;
 - ii. Exceed the authority of the design review board or planning commission;
 - iii. Conflict with SEPA conditions or other regulatory requirements applicable to the project; or
 - iv. Conflict with requirements of local, state, or federal law.

AT&T acknowledges and understands the above provisions.

F. Decision Criteria.

1. A conditional use may be approved or approved with conditions if:

a. The conditional use is harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property; provided, that in the case of a housing design demonstration project any differences in design, character or appearance that are in furtherance of the purpose and decision criteria of BIMC 2.16.020.Q shall not result in denial of a conditional use permit for the project; and

Applicant response: AT&T's proposed WCF is harmonious and compatible in design, character and appearance with the intended character and quality of the subject property. The antennas and associated equipment to be collocated on the water tank will be painted a neutral, non-reflective color (as approved by the city) to best blend in with the surroundings. As noted, the existing mature trees and vegetation on the site and in the vicinity serve to screen the proposed WCF from other adjacent uses.

b. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities; and

Applicant response: The proposed WCF will be served by adequate public facilities and only requires electricity and telecommunications. As an unmanned passive use, the proposed WCF does not require water, fire protection, sewage disposal, or storm drainage facilities, and will only generate one vehicle trip per month, on average, for maintenance.

c. The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property; and

Applicant response: The proposed WCF will not be materially detrimental to uses or property in the vicinity. As noted, the Facility is an unmanned passive use. Pursuant to Attachment 8—Noise Report, any noise from the operation of the Facility's equipment is within approved limits. The proposed Facility will also be sufficiently screened and camouflaged by the existing structures, mature trees and vegetation to minimize any visual or aesthetic impact. In fact, the proposed WCF will be materially beneficial to uses and properties in the vicinity by providing enhanced 4G LTE wireless coverage in an area currently experiencing poor wireless service.

d. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and

Applicant response: As has been demonstrated herein, the proposed Facility is in accord with the Bainbridge Island Comprehensive Plan, including:

- *Economic Element: Support infrastructure enhancement to accommodate new information technology and changing conditions; and*
- *Utilities Element: Pursue internet and cellular service of the highest standards for governmental and educational institutions, business and commerce and personal use and ensure that emergency communication services are universally available to assist residents in emergencies.*

People rely on the ability to use their phones and other wireless devices at work and at home, both indoors and outdoors. As the population of the City of Bainbridge Island increases and land development patterns change over time, the demand for urban services also increases and changes.

The proposed Facility is in accord with the Comprehensive Plan by providing reliable communications services to a growing community and doing so in a manner that does not affect any views of the natural beauty of Bainbridge Island. It takes advantage of collocating on an existing structure which avoids the need for construction of an additional communication facility. The proposed WCF further supports economic growth by providing a choice of carriers in the area and providing needed, reliable wireless services for businesses and residents. Increasingly, people are relying on their wireless devices for everything from information gathering to financial transactions to primary home phone service. As such, the enhanced 4G LTE coverage provided by the proposed WCF will improve emergency responses for those making emergency calls (including 911), as well as provide access to the FirstNet Network for first responders.

e. The conditional use complies with all other provisions of the BIMC, unless a provision has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q; and

Applicant response: As demonstrated by AT&T's responses herein, the proposed WCF complies with all other applicable provisions of the BIMC.

f. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property; and

Applicant response: The proposed WCF will not impact the immediate vicinity of the subject property. AT&T is proposing to collocate on an existing structure thus eliminating the need for a new tower. As noted, the Facility is an unmanned passive use. Pursuant to Attachment 8—Noise Report, any noise from the operation of the Facility's equipment will be mitigated and reduced pursuant to the city's code. Additionally, the antenna mounts, antennas, and associated equipment will be painted a neutral, non-reflective color to match the water tank (as approved by the city), and the Facility will be screened and camouflaged by the existing mature trees and vegetation on the subject property and surrounding area to minimize any visual or aesthetic impact.

g. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and

Applicant response: Pursuant to Attachment 8—Noise Report, noise levels are in compliance with BIC 16.16.020 and 16.16.040A.

h. The vehicular, pedestrian, and bicycle circulation meets all applicable city standards, unless the city engineer has modified the requirements of BIMC 18.15.020.B.4 and B.5, allows alternate driveway and parking area surfaces, and confirmed that those surfaces meet city requirements for handling surface water and pollutants in accordance with Chapters 15.20 and 15.21 BIMC; and

Applicant response: AT&T is not proposing to construct any new vehicle, pedestrian, or bicycle circulation, and as an unmanned wireless facility, the requirements of BIMC 18.15.020.B.4 and B.5 do not apply. The existing access driveway used by KPUD to access the water tank is sufficient for the single vehicle that will visit the site for maintenance approximately once per month.

i. The city engineer has determined that the conditional use meets the following decision criteria:

- i. The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
- ii. The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
- iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
- iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
- v. If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the applicable service(s) can be made available at the site; and
- vi. The conditional use conforms to the “City of Bainbridge Island Engineering Design and Development Standards Manual,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17.

Applicant response: The proposed WCF will only add 120 sq.ft. of new hard surfaces for the ground equipment concrete pad and therefore does not qualify as a regulated activity subject to Chapters 15.20 and 15.21 BIMC or the provisions in this subsection i. AT&T

intends to implement any erosion control measures required by the city during construction of the proposed Facility.

j. If a major conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.Q, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.Q.

Applicant response: Not applicable.

2. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the application shall be denied.

Applicant response: AT&T acknowledges and understands this provision.

G. Additional Decision Criteria for Institutions in Residential Zones. Applications to locate any of those uses categorized as educational facilities, governmental facilities, religious facilities, health care facilities, cultural facilities, or clubs in Table 18.09.020 in residential zones shall be processed as major conditional use permits and shall be required to meet the following criteria, in addition to those in subsection D of this section:

[Remainder Omitted as Not Applicable]

H. Approval of Additional Height in Nonresidential Districts.

[Remainder Omitted as Not Applicable]

I. Effect of Approval.

1. Once a conditional use permit is approved, no building, use or development shall occur contrary to that specified in the conditional use permit.

2. The owner shall record a declaration with the Kitsap County auditor showing the land to be bound by a conditional use permit. No building permit shall be issued for structures other than those specified in the conditional use approval.

a. The declaration shall reference the official files of the city through which the permit was granted; and

b. The declaration shall be a covenant running with the land; and

c. No building permit shall be issued unless such declaration is recorded.

Applicant response: AT&T acknowledges, understands, and intends to comply with these provisions.

J. Amendments to Approved Major Conditional Use Permit.

1. Minor adjustments to an approved major conditional use permit may be made after review and approval by the director. Minor adjustments are those that entail small changes in dimensions or siting of structures or the location of public amenities, but do not entail changes to the intensity or character of the use.
2. Major adjustments to an approved major conditional use permit require an amended application and shall be processed in the same manner as a new conditional use permit application. Major adjustments are those that change the basic design, intensity, density, and/or use.

Applicant response: AT&T acknowledges and understands these provisions.