

PROJECT NARRATIVE
WCF CONDITIONAL USE APPLICATION
BR0306 Bainbridge Lynwood Center

Submitted to City of Bainbridge Island
Planning and Community Development

Applicant: New Cingular Wireless PCS, LLC ("AT&T")
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Property-Owner: Kitsap Public Utility District (KPUD)
PO Box 1989
Poulsbo, WA 98370
Contact: Dave Epperson
360-626-7732

Project Address: No Situs, NE Baker Hill Road
Bainbridge Island WA 98110

Description & Tax Lot: GPS Coordinates: 47.606325 / -122.544258
Parcel No. 042402-1-054-2005

Zoning Classification: R-5 Residential

Smartlink LLC is submitting this application on behalf of New Cingular Wireless PCS, LLC ("AT&T") and the underlying property owner.

1. PROJECT OVERVIEW

AT&T is proposing to collocate a new wireless communications facility ("WCF" or "Facility"), BR0306 Bainbridge Lynwood Center, on the existing KPUD water tank at the above noted project address. This proposed Facility is a coverage site intended to fill a significant gap in AT&T's 4G LTE coverage and provide new and dominant coverage in and around Lynwood Center and the surrounding residential areas.

In addition to the city's Master Land Use Application, 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—Statement of Code Compliance
- Attachment 3—AT&T RF Justification
- Attachment 4—AT&T RF Statement of Compliance
- Attachment 5—FAA TOWAIR Determination
- Attachment 6—Viewshed Map
- Attachment 7—Photo Simulations
- Attachment 8—Noise Report
- Attachment 9—Zoning Drawings

As shown in AT&T's Application, this proposed project meets all applicable Bainbridge Island Municipal Code ("BIMC") provisions and complies with all other applicable state and federal laws and regulations. AT&T's proposal is also the least intrusive means of meeting its coverage objectives for this site. Accordingly, AT&T respectfully requests Bainbridge Island to approve this project as proposed, subject only to Bainbridge Island's standard conditions of approval for similar proposals.

Please Note: The responses and information included in **Attachment 2—Statement of Code Compliance** are intended to support and supplement this Project Narrative. All references to "Attachments" in this Project Narrative are in reference to the above-noted attachments included as part of AT&T's Application.

2. PROPOSED PROJECT DETAILS

Additional detailed information regarding the subject property, proposed lease area, and proposed WCF are included in **Attachment 9—Zoning Drawings**.

2.1. Site Description

- **Subject property.** The subject property is located at Lat: 47.606325 Long: -122.544258 in the City of Bainbridge Island (the "Property"). The Property is owned by Kitsap Public Utility District (KPUD).
- **Zoning—Use.** The Property is zoned as R-5 (Residential) and is currently used for a KPUD water tank.
- **Lease area.** The proposed 25-foot x 10-foot ft lease area for the WCF ground equipment is located in the center portion of the Property off of NE Baker Hill Rd. (the "Lease Area"). Pursuant to the request of KPUD, the Lease Area will not be separately fenced or landscaped. KPUD has installed a fence around the perimeter of the property.

2.2. Access, Parking and Trip Generation.

- Current and future access to the subject site will be from the existing gravel access driveway from NE Baker Hill Road to the north.
- There is available parking in the existing KPUD compound.
- The proposed WCF will be an unmanned wireless facility. As such, after the initial construction, AT&T will only access the Facility for regular maintenance and inspections, which will likely generate no more than one or two trips per month, on average.

2.3. Wireless Facilities and Equipment

- **Collocation Attached to Water Tank.** AT&T is proposing to collocate and install new antennas and accessory equipment on an existing KPUD water tank.
- **Antennas and Accessory Equipment.**
 - The Facility will contain antennas and equipment supporting AT&T 4G LTE including up to: twelve (12) panel antennas (4 per sector), eighteen (18) remote radio head (RRH) units, two (2) surge protectors, and all associated fiber/DC cables.
 - The antennas will be mounted to the water tank with custom steel mounts.
- **Ground Equipment.** The proposed ground equipment will be located in pre-fabricated walk-up equipment cabinets (WUCs), placed on a 20 foot x 6 foot concrete equipment pad.
- **Color.** The antennas, antenna mounts, and associated equipment will be painted a neutral, non-reflective color (approved by the City) to best blend with the surrounding environment.
- **Lighting.** No artificial lighting is required pursuant to federal authorities. (See **Attachment 5—FAA TOWAIR Determination**) AT&T is also not proposing the addition of any artificial lighting.

- **Noise.** Pursuant to **Attachment 8—Noise Study**, noise from the ground equipment is within acceptable levels.

2.4. Screening and Landscaping.

AT&T has designed the proposed Facility to best blend in with and be screened by the existing surroundings.

- The existing mature trees and topography to the east, south, and west and the existing building to the north effectively screen the antennas and ground equipment from those adjacent streets and uses. See **Attachment 6—Viewshed Map** and **Attachment 7—Photo Simulations**.
- KPUD has installed perimeter fencing with site-obscuring privacy slats on the west side to effectively screen the ground equipment from adjacent street uses.
- The existing mature trees on site and the proposed neutral colored paint help to camouflage and screen the antennas to best blend into the environment to minimize any visual and aesthetic impacts.
- Given the extensive existing tree canopy and limited ground space on the site, KPUD requested that no additional landscaping or fencing be installed for screening.

3. AT&T NETWORK COVERAGE AND SERVICES

3.1. Overview—AT&T 4G LTE

AT&T is upgrading and expanding its wireless communications network to support the latest 4G LTE technology. LTE stands for “Long Term Evolution.” This acronym refers to the ongoing process of improving wireless technology standards, which is now in its fourth generation. With each generation comes improvement in speed and functionality—4G LTE offers 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.

3.2. Service Objectives and Targeted Service Area for Proposed Facility

The proposed Facility is a service coverage site intended to provide adequate and dominant coverage in and around Lynwood Center and the surrounding residential areas, especially those to the west (the “Targeted Service Area”). This Facility will also provide improved coverage for ferries on the Seattle-Bremerton Ferry.

As determined by AT&T's RF engineers, the proposed new Facility meets AT&T's service objectives to provide continuous and uninterrupted outdoor, in-vehicle, and in-building wireless service within the Targeted Service Area, resulting in fewer dropped calls, improved call quality, and improved access to additional wireless services the public now demands (including emergency 911 calls). The service objective, Targeted Service Area, and proposed location were determined by AT&T's RF engineers through a combined analysis of market demand, customer complaints, service requests, and RF

engineering design. See **Attachment 3—AT&T RF Justification**. As an additional factor to drive the need for enhanced service in this area, the City Manager also reached out to AT&T regarding the insufficient wireless service in the Targeted Service Area.

3.3. Search Ring

AT&T's RF engineers performed an RF engineering study—considering multiple objectives—to determine the approximate site location and antenna height required to best fulfill the noted service objectives within the Targeted Service Area. From this study, AT&T's RF engineers identified a search ring area where a new wireless facility may be located to provide effective service in the Targeted Service Area. The search ring established for this proposal (the "Search Ring"), and a description of the methodology used to determine the search ring, is provided in **Attachment 3—AT&T RF Justification**.

4. ALTERNATIVE SITE ANALYSIS

AT&T generally considers all siting possibilities within, and adjacent to, a search ring to determine the best location for a new facility to meet the targeted service objectives. AT&T will first attempt to utilize an existing tower or structure for collocation at the desired antenna height.

For this proposed WCF, AT&T's construction and real estate group, with the assistance of outside consultants, thoroughly analyzed siting options pursuant to BIMC 18.10.070 Prioritized Locations and found that the proposed location is the only available location within the Search Ring that will meet AT&T's service objectives in the Targeted Service Area.

- **Co-location.** There are no existing towers available for collocation within the search ring identified for the Targeted Service Area.
- **Public buildings and structures located in nonresidential zones.** The search ring for servicing the Targeted Service Area is almost entirely zoned residential (R-0.4, R-1, R-2, and R-5). Small portions of the search ring are zoned NC and NC-R-12, however there are no public buildings or structures available for collocation within those zones in the search ring. In fact, aside from the small areas zoned NC and NC-R-12, the entirety of the southern tip of the island is zoned residential. AT&T did evaluate an alternative site on the rooftop of a school outside of the search ring, approximately 0.42 miles east of the proposed Facility. However, the school is still located in a residential zone and was found by AT&T's RF engineers to not be feasible for collocation because it does not meet AT&T's service objectives for the Targeted Service Area. See **Attachment 3—AT&T RF Justification**.
- **Buildings and structures in business and commercial zoned sites used for research and development, commercial and business uses.** As noted, the search ring for servicing the Targeted Service Area is almost entirely zoned residential. AT&T did not identify any buildings, structures, or sites within these zones in the search ring as available for siting the proposed Facility.
- **Buildings and structures in residential zones not used entirely for residential use; provided, that WCFs will not be sited on vacant residential lots.** Though the proposed Facility is in the

lowest priority location, as evidenced throughout AT&T's application, siting the proposed WCF on the KPUD water tank will have minimal impact, if any, on the adjacent and surrounding streets and properties.

5. APPLICABLE LAW

5.1. Local Codes, Policies, and Procedures

- **WCF Regulations.** Pursuant to the City's Administration Manual for Planning Permit Submittal Requirements, applications for WCF are subject to the provisions of Chapter 18.10 BIMC.
- **Major Conditional Use Permit.** Additionally, pursuant to BIMC 18.10.030.C and Table 2.16.010-1, the proposed Facility is subject to the Major Conditional Use Permit requirements outlined in BIMC 2.16.110.
 - **Review Procedures.** AT&T acknowledges that the WCF permit and major conditional use permit applications will be reviewed pursuant to the applicable procedures in Chapter 2.16 BIMC, and acknowledges that the Conceptual Proposal Review Meeting and the Design Guidance Review Meeting have been waived for this proposal.

See **Attachment 2—Statement of Code Compliance** for AT&T's demonstration of compliance with all applicable review criteria in the BIMC.

5.2. State Environmental Laws

The proposed Facility is categorically exempt from SEPA review pursuant to WAC 197-11-800(25)(a)(i).

5.3. Federal Law

Federal law, primarily found in the Telecommunications Act of 1996 ("Telecom Act"), acknowledges a local jurisdiction's zoning authority over proposed wireless facilities but limits the exercise of that authority in several important ways.

5.3.1. Local jurisdictions may not materially limit or inhibit. The Telecom Act prohibits 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 2018,¹ a local jurisdiction’s action has the effect of prohibiting the provision of wireless services 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.”² 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 in terms of adding capacity, updating to new technologies, and/or maintaining high quality service.³

While an applicant is no longer required to show a significant gap in service coverage, in the Ninth Circuit, a local jurisdiction clearly violates section 332(c)(7)(B)(i)(II) when it prevents a wireless carrier from using the least intrusive means to fill a significant gap in service coverage. *T-Mobile U.S.A., Inc. v. City of Anacortes*, 572 F.3d 987, 988 (9th Cir. 2009).

- **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 (10th 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 714, 734 (9th Cir. 2005). These values are reflected by the local code’s preferences and siting requirements.

5.3.2. Environmental and health effects prohibited from consideration. Also, under the Telecom Act, a jurisdiction is prohibited from considering the environmental effects of RF emissions (including health effects) of the proposed site if the site will operate in compliance with federal regulations. 47 U.S.C. § 332(c)(7)(B)(iv). AT&T has included with this application a statement from its radio frequency engineers demonstrating that the proposed facility will operate in accordance with the Federal Communications Commission’s RF emissions regulations. See **Attachment 4—AT&T RF Statement of Compliance**. Accordingly, this issue is

¹ *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, FCC 18-133 (rel. Sept. 27, 2018); 83 Fed. Reg. 51867 (Oct. 14, 2018) (“FCC Order”).

² *Id.* at ¶ 35.

³ *Id.* at ¶¶ 34-42.

preempted under federal law and any testimony or documents introduced relating to the environmental or health effects of the proposed Facility should be disregarded in this proceeding.

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

5.3.4. Shot Clock. Finally, the Telecom Act requires local jurisdictions to act upon applications for wireless communications sites within a "reasonable" period of time. 47 U.S.C. § 332(c)(7)(B)(ii). The FCC has issued a "Shot Clock" rule to establish a deadline for the issuance of land use permits for wireless facilities. 47 C.F.R. § 1.6001, *et seq.* A presumptively reasonable period of time for a local government to act on all relevant applications for a "macro" wireless facility on a new structure is 150 days. 47 C.F.R. § 1.6003(c)(1)(iv). The Shot Clock date is determined by counting forward 150 calendar days from the day after the date of submittal, including any required pre-application period. 47 C.F.R. § 1.6003(e).

Pursuant to federal law, the reasonable time period for review of this application is 150 days.