PROJECT NARRATIVE
Wireless Communications Facility (WCF) Conditional Use Permit Application

AT&T SN4998 Quilceda

Submitted to the City of Marysville, WA
Community and Economic Development Department

Applicant:	New Cingular Wireless PCS, LLC ("AT&T") 19801 SW 72nd Avenue Suite 200 Tualatin, OR 97062 (425) 222-1026
Representative:	Smartlink 11232 120th Ave NE #204 Kirkland, WA 98033 **Contact:** Nancy Sears 425-444-1434 Nancy.sears@smartlinkgroup.com
Property-Owner:	Serj Development Inc Contact: Rune Harkestad 1500 E Katella Ave, Ste 5 Orange, CA 92867 (425) 577-8556
Project Address:	11435 38th Dr NE Marysville, WA 98271
Description & Tax Lot:	GPS Coordinates: 48.098508 / -122.178639 Parcel No. 00482800000104
Zoning Classification:	CB - Community Business

Smartlink 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 build a new personal wireless service facility ("Facility"), SN4998 Quilceda at the above noted project address. This Facility is a service coverage and capacity site intended to improve coverage to NE of the Premium Outlets and increase capacity to commercial and residential portions to East of I-5 and around 116th St NE in Marysville.

In addition to the Land Use Application for WCF, and pursuant to the Conditional use Permit Checklist (the "Checklist"), AT&T intends its application for the proposed Facility to include the following documents (collectively, "AT&T's Application"):

- Attachment 1—SEPA Environmental Checklist
- Attachment 2—Project Narrative
- Attachment 3—Statement of Code Compliance
- Attachment 4—Zoning Drawings
- Attachment 5—NIER Report
- Attachment 6—AT&T Radio Frequency (RF) Justification (Propagation Maps; Service Area Map)
- Attachment 7—Photo Simulations
- Attachment 8-Affidavit of Siting Hierarchy/RF Cover Letter
- Attachment 9-Collocation Agreement Letter
- Attachment 10-Noise Report
- Attachment 11-FAA TOWAIR Determination

As shown in AT&T's Application, this proposed project meets all applicable City of Marysville Municipal Code ("MMC") criteria for siting new wireless communications facilities 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 the City of Marysville to approve this project as proposed, subject only to The City of Marysville's standard conditions of approval.

2. PROPOSED PROJECT DETAILS

Additional detailed information regarding the subject property, proposed lease area, and proposed wireless support structure and equipment is included in **Attachment 4—Zoning Drawings.**

2.1. Site Description

- **Subject property.** The subject property of this proposal is located at 17020 Smokey Point Blvd. in Marysville (the "Property"). The Property is owned by Smokey Point Property LLC/Trinity Real Estate.
- **Zoning.** The Property is zoned as CB (Community Business) and is currently used primarily as a Car Wash. All properties surrounding the site are zoned CB.
- **Lease area.** The proposed 1,715 sf lease area for the Facility is located at the northwest end of the Property (the "Lease Area"). The Lease Area will be surrounded by an 8 ft solid wood fence and a 5 ft landscape buffer with access secured by a locked gate.

2.2. Access, Parking, and Trip Generation

- **Access.** Access to the Lease Area will be by foot from 38th Dr NE. AT&T will obtain any necessary access (and/or utility) easements as part of the final lease agreement with the property owner.
- **Parking.** The Lease Area is located adjacent to property owned by the same landowner carwash at the NE end of the building and parking spaces are existing. The existing parking lot can be used for turn-around.
- **Trip generation.** The proposed Facility will be an unmanned wireless facility. As such, after the initial construction, AT&T will only regularly access the Facility for maintenance and inspections, which will likely generate no more than one or two trips per month.

2.3. Wireless Facilities and Equipment

2.3.1. Support structure design.

- AT&T is proposing to build a new 140ft tall tower, camouflaged as a pine tree (the "Tower") within the Lease Area on the Property. The actual structure, or tower will be 135ft and the antenna tip height will be 130ft'. The concealing "monopine" structure will extend up to 140ft.
- This will be an unmanned wireless facility.

2.3.2. Antennas and accessory equipment.

- The Tower will contain AT&T 4G LTE and low-band 5G equipment (up to 12 panel antennas, 18 remote radio unites (RRUs), and 3 new surge protectors, with all associated equipment).
- The antennas, RRUs, and accessory equipment on the Tower will be concealed within the "Monopine" structure. The tower will be a nonreflective brown.

2.3.3. Ground equipment.

- The Tower and all ground equipment will be constructed within the Lease Area.
- The ground equipment will be enclosed within a pre-fabricated walk-in cabinet shelter.
- An external redundant diesel generator will be located on a separate pad next to the cabinet shelter.

2.3.4. Lighting. The Tower will not be artificially illuminated, and no artificial lighting is required pursuant to state or federal authorities. *See* **Attachment 11-FAA TOWAIR Determination**.

2.4. Landscaping & Screening

- **Landscape Plan.** Pursuant to MMC 22C.250.080(5) and 22C.020.330, AT&T is proposing a 5ft landscaping buffer surrounding an 8ft wood fence as follows:

    - Solid wood fencing around the perimeter of the Lease Area to screen the Lease Area compound and ground equipment
    - A 5ft perimeter planting of trees and shrubs along the perimeter of the Lease Area fencing to complement the existing vegetation and to provide more natural vegetation to better blend with surrounding environment and uses.

- Use of existing trees and vegetation to the east and south of the Lease Area to further screen the Facility and help best blend it in with the surrounding environment. All existing trees on the Property will be retained.

Please see **Attachment 4—Zoning Drawings** and **Attachment 7—Photo Simulations** for a visual representation of the proposed landscaping plan.

2.5. Utilities

- **Power.** Underground power will be provided by Snohomish County PUD.
- **Telecommunications.** Telecommunications fiber will be provided by Comcast.
- **Water.** As this is an unmanned wireless facility, no water service is needed.
- **Sewer.** As this is an unmanned wireless facility, no sewer service is needed.

3. SITE SELECTION CRITERIA

3.1. Overview—AT&T 4G LTE and 5G Network Coverage and Services

AT&T is upgrading and expanding its wireless communications network to support the latest 4G and 5G LTE technology. 4G and 5G stand for "4th Generation" and "5th Generation" and LTE stands for "Long Term Evolution." These acronyms refer to the ongoing process of_improving wireless technology standards, which is now in its 6th generation. With each generation comes improvement in speed and functionality-4G LTE offers speeds up to ten times faster than 3G and 5G offers speeds up to 1-gigabit per second. See **Attachment-6 AT&T Radio Frequency (RF) Justification**.

This technology is the next step in increasing broadband speeds to meet the demands of users and the variety of content accessed over mobile networks and is necessary to facilitate capabilities that are being designed into the latest devices (i.e. Samsung Galaxy S20, iPhone 12). 5G, specifically, is the next generation of wireless technology expected to deliver latency and capacity enhancements that will help enable revolutionary new capabilities for consumers and businesses.

There are several components of 5G wireless technology and separate bands of wavelength spectrum used to build a 5G network-low-band (<2GHz), mid-band (3-10GHz), and high-band millimeter wave (mmWave) (20-100GHz):

- **Low-band 5G**. Low-band 5G frequencies (generally below 2GHz) are the oldest cellular (and TV) frequencies and are being used by AT&T to provide widely-available 5G service in residential, suburban, and rural areas. This is the same spectrum used for 3G and 4G cellular service today. The low-band 850MHz 5G frequency is proposed for this Facility.

  Low-band 5G frequencies are a tradeoff of download speed versus distance and service area-they are slower than the high-band mmWave and mid-band frequencies (as described below), but they travel the farthest and can pass through more obstacles to provide a better, more reliable indoor and outdoor signal for a larger service area (i.e. miles, not feet).

- **Mid-band 5G.** Mid-band 5G frequencies (generally 3-10GHz) cover most current cellular and WiFi frequencies and provide broader coverage (typically a half a mile) than high-band mmWaves but

with slower speeds. Use of these frequencies is not as prevalent for building a 5G network as much of the bandwidth in this range is currently unavailable.

- **High-band 5G+ mmWave.** High-band millimeter wave (mmWave) frequencies (generally 20-100GHz) are the new FCC-approved frequencies most associated with 5G service-"5G+" is AT&T's name for 5G service delivered using high-band mmWave spectrum. AT&T offers an enhanced wireless experience on 5G+ with mmWave service though with more limited coverage. Results continue to be impressive, with peak download speeds up to 1 gigabit per second (Gbps) - fast enough to stream 4K movies.

  High-band mmWave frequencies deliver this unprecedented performance by transmitting a large amount of data more efficiently than 4G LTE, but can only travel short distances (~1,000ft). Accordingly, high-band mmWave sites need to be in close proximity to one another and are typically used in dense, high trafficked areas such as urban areas, stadiums/arenas, airports, manufacturing and healthcare centers, etc.

5G wireless technology also includes enhanced network radio protocols and other improvements in data transmission that allow the network to more efficiently use the same frequencies currently used today for 4G.

As noted, AT&T is proposing to deploy low-band 850MHz 5G at this Facility. Upon completion, the Facility will become part of AT&T's statewide and nationwide communications 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. Network Service Objectives for Proposed Facility

The proposed Facility is both a coverage and capacity site intended to improve coverage to NE of premium outlets. This new WCF will also improve coverage to East of I-5 residential and commercial area. In addition to expanding the 4G LTE network, this Facility will also expand AT&T's 5G network in support of the next generation of wireless technology.

This proposed Facility meets AT&T's service objectives to provide uninterrupted outdoor, in-vehicle, and in-building wireless coverage within the Targeted Service Area with fewer dropped calls, improved call quality, and improved access to additional wireless services the public now demands. This includes emergency 911 calls throughout the area. The service objective and Targeted Service Area for this site were determined by AT&T's radio frequency ("RF") engineers through a combined analysis of customer complaints, service requests, and RF engineering design. (*See* **Attachment 6—AT&T Radio Frequency (RF) Justification.**

3.3. Search Ring

AT&T's radio frequency ("RF") engineers performed an RF engineering study, considering multiple objectives, to determine the approximate site location and antenna height required to fulfill the noted network objectives for the Targeted Service Area. From this study, AT&T's RF engineers identified a specific geographic area, or "search ring" area, where a PWSF may be located to provide effective service in the Target Service Area.

The search ring established for this proposal, and a description of the methodology used to identify the search ring, is provided in **Attachment 6— AT&T Radio Frequency (RF) Justification**.

3.4. Priority of Locations and Collocation Attempts

Pursuant to MMC 22C.250 all other higher-priority locations for siting the proposed Facility were reviewed and found to be infeasible, as further discussed below:

(1) *Co-location with existing antenna support structure.*

a) That requires no increase in pole or structure height.

b) That requires an increase in pole or structure height, which shall comply with MMC 22C.250.080(3).

A new facility meeting the definition of a new concealed antenna support structure is proposed as there are no collocation opportunities on existing antenna support structures in or adjacent to the search ring. AT&T is on the tower that is .38 miles from the proposed site.

(2) A new concealed antenna support structure or concealed consolidation:

- *On developed, improved sites in nonresidential zoning districts; or*
- *On publicly owned land.*
- *Concealed attached WCF:*
- *Within public parks, public open spaces, and on other publicly owned land; or*
- *Within public rights-of-way; or*
- *Within nonresidential zoning districts or residential zoning districts on lots not used for single-family residential purposes.*

A new facility meeting the definition of a new concealed antenna support structure is proposed on a developed site, improved with a carwash, in the nonresidential zoning district, thus meeting the criteria of priority location 2.

AT&T would prefer to collocate whenever feasible, however, there are no existing WCF or other structures (power poles, buildings, water towers) within or adjacent to the search ring that would provide the height required to meet AT&T's service objectives in the Targeted Service Area. Additionally, within and adjacent to the search ring all other property is zoned R-5 and there is no public land available, making it infeasible to locate in a higher priority area than proposed. This is AT&T second attempt to find a wireless site to accomplish its service objective for this area. The first was another raw land site in a church parking lot that was rejected by the community and the church withdrew.

4. APPLICABLE LAW

4.1. Local Codes and Policies

Unless indicated as exempt or inapplicable, AT&T's specific responses to the applicable provisions in the MMC and county policy, as referenced below, are included in **Attachment 3—Statement of Code Compliance.**

- **Zoning—MMC 22C.020.060**. WCF are an allowed use in the CB zone with a conditional use permit.
- **WCF Regulations—Chapter 22C.250 MMC.**
- **General Zoning Standards**
    - **Design Standards—Chapter 22C.250.080 (3) & (4) MMC.**
    - **Landscaping and Fencing Requirements—MMC 22C.250.080 (5).**
- **Conditional Use Permits—Chapter 22G.010.430 MMC.**
- **Environmental Review (SEPA)—Chapter 22E.030 MMC.** AT&T has submitted a SEPA Checklist as part of this CUP application for the proposed Facility pursuant to this chapter and RCW 43.21C.120.

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 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

[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. 15, 2018) ("FCC Order").
[2] Id. at ¶ 35.
[3] Id. at ¶¶ 34-42.

the least intrusive on the values that the denial sought to serve.'" 572 F.3d at 995, *quoting MetroPCS, Inc. v. City of San Francisco*, 400 F.3d 715, 734 (9th Cir. 2005). These values are reflected by the local code's preferences and siting requirements.

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 5-NIER Report**. Accordingly, this issue is preempted under federal law and any testimony or documents introduced relating to the environmental or health effects of the proposed Facility 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*. 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.