

**STATEMENT OF CODE COMPLIANCE
CONDITIONAL USE PERMIT APPLICATION
AT&T WCF—SN2975 SMOKEY POINT NORTH**

Submitted on June 29, 2022 to the City of Arlington, WA
Planning & Land Use Division

AT&T’s application (the “Application”) for a new Wireless communications facility (“WCF”) (the “Facility”) in the Highway Corridor (HC) zone with a mixed-use overlay is subject to and complies with the following applicable provisions of Arlington’s Municipal Code (“AMC”), which are addressed in this Statement of Code Compliance in the following order:

TITLE 20 - ZONING

I. ZONING

- **AMC Table 20.40-1** **Table of Permissible Uses**
- **AMC 20.36.020** **Commercial districts established**
- **AMC 20.36.080** **Mixed use overlay district established**

II. WIRELESS COMMUNICATIONS FACILITIES

- **AMC 20.44 Wireless communications facilities.**

III. SUPPLEMENTAL USE REGULATIONS

- **AMC 20.44.210** **Noise**

IV. AIRPORT PROTECTION DISTRICT

- **AMC 20.38.080** **Performance standards and miscellaneous restrictions**
- **AMC 20.38.090** **Notice to future owners**
- **AMC 20.38.100** **Supplemental permit review requirements**

V. PERMITS REQUIRED

- **AMC 20.16.100** **Zoning Permits**
- **AMC 20.16.120** **Notice of application filed**
- **AMC 20.16.140** **Special use permits and 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. ZONING.

Table 20.40-1: Table of Permissible Uses

USE DESCRIPTIONS	ZONES										
	SR	RLMD	RMD	RHD	OTR	NC	OTB1	OTB2	OTB3	GC	HC
18.250 Macro Facilities ⁸				Z	Z	Z	Z	Z	Z	Z	Z
18.260 Monopole I ⁸											C
18.270 Monopole II ⁸											C

(8) Subject to Section 20.44.034 (Wireless Communications Facilities)

Applicant response: AT&T is proposing a Monopole II in the HC zone and is applying for a conditional use permit.

20.36.020 - Commercial districts established.

(e) The highway commercial (HC) zone is designed to accommodate the widest range of commercial activities. Uses allowed here include those allowed in other commercial districts, but also those that require highway access or that should be separated from residential uses.

20.36.080 - Mixed use overlay district established.

The mixed-use overlay district is hereby established as an "overlay" district, meaning that the underlying zoning applicable within each commercial zone remains as the primary or principle zoning designation. The overlay allows for a mix of diversified residential development to co-exist within a proportionate share of the commercially zoned areas of highway commercial (HC), general commercial (GC), and neighborhood commercial (NC) zones where typical retail and other support services would be located, thus creating a walkable neighborhood concept. The mixed-use overlay will also be applied to the residential moderate density (RMD) and residential high density (RHD) zones along the Smokey Point Boulevard corridor. The overlay will provide for the efficient use of property by requiring the mixed use of properties in a manner that allows for residential development to co-exist with commercial, retail and specific light manufacturing uses. This promotes the creation of attractive, sustainable neighborhoods which enable walkability and less automobile dependency. The performance standards/design guidelines set forth in Chapter 20.110 place limitations on the characteristics of uses located in these districts.

II. WIRELESS COMMUNICATIONS FACILITIES

20.44.034 Wireless communications facilities.

(a) Purpose. This section is intended to provide for a wide range of locations and options for wireless communication providers while minimizing the visual impacts associated with wireless

communication facilities. It is also intended to encourage creative approaches in locating wireless communication facilities so as to encourage facilities to blend in with the surroundings of such facilities. This section is intended to work in concert with other sections of this code. If there is a conflict between wireless facilities and other sections of this title then the most restrictive requirements apply.

(b) General Wireless Communication Facilities Development Standards. Unless otherwise modified by subsequent subsections, all wireless communication facilities shall be subject to the following standards and requirements.

1) Collocation on existing support structures shall be encouraged and shall comply with Chapter 20.102. All wireless communication facilities support structures shall be built to accommodate the location of two or more wireless communication facilities unless proved infeasible. It shall be a continuing condition on all land use permits issued for a wireless communication facility that the permit holder allows collocation for reasonable compensation. Collocation on existing support structures or base stations shall be exempt from zoning and development regulations, provided that an application for an "eligible facilities request" has been received and determined that there is no substantial change to the existing support structure or base station, per the criteria in Chapter 20.102.

Applicant response: AT&T is proposing a new WCF that will accommodate up to two additional carriers. Please see Attachment 3-Zoning Drawings.

2) Except for micro- and mini- facilities, shelters or cabinets used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the facility support structure shall be concealed, screened, camouflaged or placed underground.

Applicant response: AT&T is proposing to screen the ground equipment with a 6ft chain link fence with privacy slats and to use the existing buildings and vegetation as additional screening. The proposed site is located in a parking lot at the back of a shopping center, between a tree and the approximate 6ft berm to the freeway entrance. Ground visibility of the proposed site is minimal.

3) Wireless communication facilities shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

Applicant response: AT&T is proposing a monopine, a monopole camouflaged as a pine tree to blend with surrounding evergreens. Please see Attachment 4-Photo Simulations. The proposed site is in a parking lot at the back of a shopping center. Existing on-site vegetation will not be disturbed, and no grading will be required.

4) Federal Aviation Administration Jurisdiction. All applications for telecommunications facilities regulated by this section must comply with all FAA requirements pertaining to operations of a telecommunications device on or near the Arlington Airport, including FAA Part 77 regulations. It is the responsibility of the applicant to be familiar with and meet relevant FAA regulations.

Applicant response: AT&T has filed for an FAA determination which will be supplied to the city upon receipt.

5) All wireless telecommunications facilities are subject to Section 20.44.210 (Noise).

Applicant response: The proposed facility is in compliance with AMC 20.44.210 as addressed in 20.44.210 below and demonstrated in Attachment 5-Noise Report.

6) Signals emanating to or from wireless communications equipment shall conform to current FCC regulations with regard to avoiding the creation of interference to neighboring electronic or other operating devices.

Applicant response: Please see Attachment 6-RF Non-Interference Letter.

7) FCC Preemption. In any proceeding regarding the issuance of a permit under the terms of this section, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications regulations concerning such emission.

Applicant response: Understood. Please see Attachment 7-NIER Report for conformance with current FCC regulations.

(c) Development Standards for Micro Facilities.

Applicant response: AT&T is proposing a Monopole II facility and the remainder of this section is intentionally omitted.

(d) Development Standards for Mini Facilities.

Applicant response: AT&T is proposing a Monopole II facility and the remainder of this section is intentionally omitted.

(e) Development Standards for Macro Facilities.

Applicant response: AT&T is proposing a Monopole II facility and the remainder of this section is intentionally omitted.

(f) Development Standards for Monopole I.

Applicant response: AT&T is proposing a Monopole II facility and the remainder of this section is intentionally omitted.

(g) Development Standards for Monopole II.

1) Monopole II facilities are only permitted in the portion of the general industrial (GI) district east of 67th Avenue NE and south of 204th Street NE, and the entire highway commercial (HC) zone.

Applicant response: AT&T is proposing a Monopole II facility in the HC zone.

2) Macro facilities are the largest permitted wireless communication facilities allowed on a monopole II facility.

Applicant response: The proposed antennas are 8ft in height.

3) The maximum height for a monopole II facility support structure shall be one hundred fifty feet. Antennas may extend above the monopole II wireless communications support

structure another fifteen feet, making the maximum permitted height of the support structure and antennas one hundred sixty-five feet (one hundred fifty feet plus fifteen feet).

Applicant response: AT&T is proposing a monopine, a monopole camouflaged as a pine tree. The proposed monopole height is 130ft. The total height of the structure is 140ft to accommodate the crown of the "tree" and provide coverage for the antennas. Please see page A-3 of Attachment 3-Zoning Drawings.

4) Monopole II facilities shall be separated from other wireless communications facilities by a distance of at least five hundred feet.

Applicant response: The nearest tower is approximately 3,500ft from the proposed site. Please see Exhibit 1 to this Statement of Code Compliance.

5) Monopole II facilities are not allowed within three hundred feet of a residential zone.

Applicant response: The nearest residentially zoned property is approximately 1,000ft from the proposed site. Please see Exhibit 1 to this Statement of Code Compliance

6) The facility shall also comply with the requirements of subsection (b).

Applicant response: As demonstrated in applicant responses above, AT&T's proposal is in compliance with the requirements of subsection (b).

(h) Modification of Existing Facilities.

Applicant response: AT&T is proposing a Monopole II facility and the remainder of this section is intentionally omitted.

(i) Obsolescence. A wireless communications facility or attached wireless communications facility shall be removed by the facility owner within six months of the date it ceases to be operational or if the facility falls into disrepair.

Applicant response: Understood.

III. SUPPLEMENTAL USE REGULATIONS

20.44.210 - Noise.

(a) No use in any zoning district may generate noise that tends to have an annoying or disruptive effect upon (i) uses located outside the immediate space occupied by the use if that use is one of several located on a lot, or (ii) uses located on adjacent lots.

(b) For the purpose of interpreting Subsection (a), and except as provided in Subsection (d), WAC 173-60, as may be amended, is hereby adopted and incorporated by reference in its entirety.

(c) Pursuant to WAC 173-60-030 (2), the following zones are designated to conform to the EDNAs (see WAC) as provided:

(1) SR, RLMD, RMD, RHD, and OTR - Class A EDNA

(2) NC, OTB, GC, and HC - Class B EDNA

(3) BP, A, LI, and I - Class C EDNA

(4) P/SP - shall conform to the EDNA that conforms to the zoning designation that predominately surrounds the P/SP parcel.

(d) The following provisions of WAC 173-60 are amended:

(1) WAC 173-60-050 (2)(b) (certain existing industrial uses) is specifically not adopted.

(2) Wherever WAC 173-06 speaks to the department of ecology enforcing said regulations, the city may also act to enforce them pursuant to Chapter 20.28 (Enforcement and Review) of this title.

Applicant response: The proposed facility is within acceptable noise limits. Please see Attachment 7-Noise Report for AT&T's compliance with this section.

IV. AIRPORT PROTECTION DISTRICT

20.38.080 - Performance standards and miscellaneous restrictions.

Applicant Response: AT&T's Proposed site is in subdistrict C and subsections (a) and (b) are intentionally omitted.

(c) Subdistricts A, B, and C - The following rules shall be applied within the boundaries of the AP Subdistricts A, B, and C:

(1) No use shall be permitted that would foster an increase in bird population and thereby increase the likelihood of a bird impact problem.

Applicant Response: AT&T performs month inspections on their towers and uses BMPs to discourage nesting and an increase in bird population.

(d) Subdistricts A, B, C, and D - The following rules shall be applied within the boundaries of the entire AP District:

(1) No use shall be made of any land that will cause electrical interference with navigational signals or radio communications at the airport or with radio or electronic communications between the airport and aircraft or aircraft to aircraft.

Applicant Response: Applicant understands this condition and will comply with all FAA and FCC regulations to ensure the Wireless Communication Facility will not cause electrical interference with navigational signals or radio communications at the airport or with radio or electronic communications between the airport and aircraft or aircraft to aircraft. Please see Att.6-RF Noninterference Letter.

(2) No use, building or structure shall emit emissions of fly ash, dust, vapor, gases, or other forms of emissions that may conflict with any planned operations of the airport.

Applicant Response: A WCF is a passive, unmanned use that will not emit emissions of fly ash, dust, vapor, gases, or other forms of emissions.

(3) Except as necessary and incidental to airport operations and as listed in Subsection 4, no buildings, structures or objects of natural growth shall be constructed, altered, maintained, or allowed to grow so as to project or otherwise penetrate the airspace surfaces.

Applicant Response: Applicant has filed a form 7460 with the FAA and will provide the FAA determination upon receipt. Applicant requests this be made a condition of approval.

(4) In the areas to the east, southeast and southwest of the airport where the natural terrain rises, the acceptable height and avigation easement will be based on the height of tallest tree native to the area as depicted in USDA, Soil Conservation Service, Soil Survey of Snohomish County Area, Washington, July 1983. The native tree identified is Douglas Fir with a maximum height of one hundred sixty-six feet.

Applicant Response: Applicant's proposed site is located west of the airport and is approximately the same elevation as the airport. The proposed facility will be 140ft in height.

(5) No structure or other object shall penetrate the FAR Part 77 Surfaces unless such structure or object would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height and would be located in an area of established development where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation or penetrate the FAR Part 77 Surfaces.

Applicant Response: Applicant will obtain FAA clearance for the height of the structure. The proposed tower will be 140ft AGL to the top of the faux tree and will meet the obstruction standards of Part 77.17 of the Code of Federal Regulations.

(6) Other uses or activities determined to be incompatible with aviation, aviation safety, or any activity that has a potential or would require a Temporary Flight Restriction (TFR) or interfere with airport traffic patterns and operations shall be prohibited.

Applicant Response: Understood.

20.38.090 - Notice to future owners.

In order to mitigate impacts to the Arlington Airport, and to provide notice to future property owners, all property owners within the Airport Protection Subdistricts A, B and C seeking a land use or building permit or undertaking substantial reconstruction shall dedicate an avigation easement over their property to the city of Arlington. All property owners within the Airport Protection Subdistrict D seeking a land use or building permit or conditional use permit or undertaking substantial reconstruction shall sign a disclosure notice. In addition, language shall be placed on the face of all residential subdivisions within the airport protection district notifying owners of possible affects from aviation activities. The language of the easement and notice shall be as provided by the airport, as approved by the city attorney and recorded with Snohomish County.

Applicant Response: Applicant intends to comply with this requirement.

20.38.100 - Supplemental permit review requirements.

(a) No use, building, structure, or development activity within the AP District shall be established, altered or relocated by any person, firm or corporation, except as otherwise authorized by this chapter. Permits for such activities shall be processed in accordance with applicable provisions of the underlying zone, and the permit issuing authority may require the applicant to submit the following information in addition to that required of a standard permit:

(1) A certificate from an engineer or land surveyor that clearly states that no airspace obstruction will result from the proposed use.

(2) The maximum elevation of proposed buildings or structures based on the established airport elevation.

(3) All construction on airport property and any construction that penetrates Federal Regulation Part 77 surfaces shall prepare and submit FAA form 7460.

(4) The site plan shall clearly show:

(A) The location of the project in relation to the Arlington Municipal Airport Protection District.

(B) The location and height of all proposed buildings, structures, and natural vegetation as measured from the airport surface.

(C) Within Subdistricts A, B and C, the location and type of storm drainage facilities.

Applicant Response: Applicant intends to comply with the conditions of this section. Please see Attachment 3-Zoning Drawings for compliance with (4) of this section.

V. PERMITS REQUIRED

20.16.100 – Zoning Permits.

(a) A completed application form for a zoning permit shall be submitted to the community development director by filing a copy of the application with the planning department.

(b) The community development director shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in Section 20.16.050 (Staff Consultation Before Formal Application), that:

(1) The requested permit is not within his jurisdiction according to the table of permissible uses, or

(2) The application is incomplete, or

(3) If completed as proposed in the application, the development will not comply with one or more requirements of this title (not including those requirements concerning which a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Chapter 20.32, Nonconforming Situations), or

(4) The proposed project has not complied with SEPA, or

(5) The proposed project is not in conformance with the comprehensive plan or other adopted plans, regulations, or policies.

Applicant Response: As has been demonstrated herein, the proposed facility satisfies several of the applicable goals and policies of the Arlington Comprehensive Plan including General Goal, GO-3, and Utilities Goal, GE-3, as outlined in Attachment 1-Project Narrative. Attachment 8_SEPA has been submitted for determination with this application.

GO-3 Work towards promoting and maintaining an urban environment within the City that enhances livability for its residents.

PL-1.8 Highway Commercial (HC) – This designation is intended to provide areas for a wide range of large-scale, auto-oriented commercial and business uses that may attract users from outside the Arlington area and that require highway access, larger sites, and separation from residential uses.

GE-3 Ensure Adequate utility and transportation services to accommodate business providing jobs.

Wireless services are key to growing residential and commercial areas and 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 Arlington increases and land development patterns change over time, the demand for residential services also increases and changes. These changes require that service providers, both public and private, plan for the provision of services in a coordinated manner.

The proposed Wireless Communications Facility advances the intent of the Comprehensive Plan by providing reliable communications services to a growing community and doing so in a manner that minimizes visual impacts and land use. The remainder of this section is not applicable and has been intentionally omitted.

(c) In considering the permit application, the community development director shall not consider the following issues, which have already been decided by the city council through their previous actions of adopting the comprehensive plan and land use code:

(1) Whether the proposed use, if identified by Section 20.40.010 (Table of Permissible Uses) as a permissible use in the zoning district, should be a permissible use;

(2) Whether the proposed residential densities, if identified by Section 20.48.020 (Residential Density) as a permissible density in the zoning district, should be allowed;

(3) Whether public facilities identified in the comprehensive plan are available and adequate, if the plan or development regulations provide for funding of these facilities as required by 36.70A RCW.

Applicant Response: Understood.

(d) Except as specified in Subsection (e), if the community development director decides that if it would be in the best interest of the project and/or community to provide notice of the project, he shall, at least ten days before taking final action on the permit request, send a written notice to those persons who have listed for taxation real property any portion of which is within five hundred feet of the lot that is the subject of the application, informing them that:

(1) An application has been filed for a permit authorizing identified property to be used in a specified way,

(2) All persons wishing to comment on the application should contact the community development director by a certain date, and

(3) Persons wishing to be informed of the outcome of the application should send a written request for such notification to the community development director.

Applicant Response: Understood.

(e) In the case of zoning permits for short subdivisions, the community development director shall always issue public notice as described in Subsection (d).

Applicant Response: This subsection does not apply.

20.16.140 - Special use permits and conditional use permits.

(a) An application for a special use permit shall be submitted to the community development director or hearing examiner, whomever shall be the decision-maker as per Subsection (b), by filing a copy of the application with the community development director in the planning department. An application for a conditional use permit shall be submitted to the hearing examiner by filing a copy of the application with the community development director in the planning department.

Applicant Response: The application for a conditional use permit is included as part of this submittal addressed to the community development director in the planning department.

(b) Decisions on special use permits are:

(1) Made by the community development director unless any interested party requests a hearing before the hearing examiner by the close of the review period of the notice of application filed, required per Section 20.16.120 (Notice of Application Filed).

(2) Made by the hearing examiner if a hearing is requested, in which case the community development director shall forward the special use permit application to said board for their consideration.

Applicant Response: Understood

(c) Subject to Subsection (d), the designated decision-maker shall issue the requested permit unless it concludes, based upon the information submitted at a hearing if there is a hearing or by signed letter if there is not, that:

- (1) The requested permit is not within its jurisdiction according to the table of permissible uses, or
- (2) The application is incomplete, or
- (3) If completed as proposed in the application, the development will not comply with one or more requirements of this title (not including those the applicant is not required to comply with under the circumstances specified in Chapter 20.32, Nonconforming Situations), or
- (4) The proposed project has not complied with SEPA, or
- (5) The proposed project is not in conformance with the comprehensive plan, transportation plan, or other adopted plans, regulations, or policies.

Applicant Response: Understood

(d) Even if the permit-issuing authority finds that the application complies with all other provisions of this title, it may still deny the permit if it concludes, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will materially endanger the public health or safety, or

Applicant Response: As demonstrated in Attachment 5, Noise Report, 6-RF Non-Interference Letter, 7-NIER Report and 8-SEPA, the proposed facility will not materially endanger public health or safety.

- (2) Will materially harm adjoining or abutting property,

Applicant Response: There will be no cut, grade or fill and no noxious emissions to materially harm adjoining or abutting property.

- (3) In terms of design and use will not be compatible with the area in which it is located.

Applicant Response: As depicted in Attachment 4-Photo Simulations, the proposed tower will be camouflaged as a monopine to blend with pine trees in the area.

The remainder of this section is intentionally deleted.

20.16.190 - Additional requirements on zoning, special use, and conditional use permits.

(a) Subject to Subsection (b), in granting a zoning, special, or conditional use permit, the community development director or hearing examiner, respectively, may attach to the permit such reasonable requirements in addition to those specified in this title as will ensure that the development in its proposed location:

- (1) Will not endanger the public health or safety,

Applicant Response: As demonstrated in Attachment 5, Noise Report, 6-RF Non-Interference Letter, 7-NIER Report and 8-SEPA Checklist, the proposed facility will not materially endanger public health or safety.

- (2) Will not materially harm adjoining or abutting property,

Applicant Response: There will be no cut, grade or fill and no noxious emissions to materially harm adjoining or abutting property.

- (3) In terms of design and use will be compatible with the area in which it is located, and

Applicant Response: As depicted in Attachment 4-Photo Simulations, the proposed tower will be camouflaged as a monopine to blend with pine trees in the area.

- (4) Will be in conformity with the land-use plan, transportation plan, or other plan officially adopted by the council.

Applicant Response: As demonstrated in this statement of Code Compliance, AT&T's application is in conformity with the land-up plan.

Such reasonable requirements need not be specifically authorized by other chapters of the AMC but do need to address specifically identified, project-related impacts.

(b) The permit-issuing authority may not attach additional conditions that modify or alter the specific requirements set forth in this code unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

(c) Without limiting the foregoing, the permit-issuing authority may attach to a permit a condition limiting the permit to a specified duration.

(d) All additional conditions or requirements shall be entered on the permit.

(e) All additional conditions or requirements authorized by this section are enforceable in the same

manner and to the same extent as any other applicable requirement of this title.

Applicant Response: Understood.

[The remainder of this chapter is intentionally omitted.]

VI. Conclusion

Having demonstrated that the application meets all applicable criteria for approval, AT&T respectfully requests that the City approve the application as proposed with only the standard conditions of approval.

Exhibit 1

