



King County

DEPARTMENT OF LOCAL SERVICES – PERMITTING DIVISION  
35030 SE DOUGLAS STREET, SUITE 210  
SNOQUALMIE, WA 98065-9266

AT&T @ Sammamish Beaver Lake Conditional Use Permit (CUP)  
CDUP20-0002  
Report and Decision

Date of Transmittal: December 17, 2021

**File Number:** CDUP20-0002

**Applicant:** Nancy Sears for AT&T  
Smart Link, LLC  
11232 120<sup>th</sup> Ave NE Suite 204  
Kirkland WA 98033

**Proposal:** Construction of a new unmanned 150- high monopole minor communication facility with 12 panel antennas for AT&T with placement of ground equipment, access, and landscaping. Facility is designed for co-location by other wireless companies. A reduced setback is requested from the south property line.

**STR/Parcel:** 12-24-06/ 1224069012  
**Acres:** 3.4 acres  
**Location:** 26325 SE 39<sup>th</sup> St Issaquah WA 98029  
**Zoning:** RA-5 P  
**Community Plan:** East Sammamish (No longer adopted)  
**Drainage Basin:** Issaquah Creek and Patterson Creek  
**Application Date:** January 31, 2020  
**Date Complete:** February 28, 2020

**Report prepared:** Nancy Hopkins Goree, Senior Planner/PPM

The Department file CDUP20-0002 containing the applicant's submitted information, public notice, documentation by staff and correspondence are incorporated herein by reference. Having reviewed all documents entered into the record and after considering the Zoning Code requirements for a Conditional Use Permit, staff makes and enters the following:

**BACKGROUND**

Prior to the preparation of this report, King County staff discussed the proposed CUP development with the applicant to clarify technical details of the application, and to determine the compatibility of this project with applicable King County plans, codes, and other official documents regulating this development.

King County Code (KCC) Section 21A.27.030, requires new minor telecommunication transmission support structures (tower), greater than 60 feet in height in the RA zoning district to obtain a conditional use permit (CUP). Antennas located on towers are a permitted use.

An application for a CUP was made on January 31, 2020 and determined complete on February 28, 2020. Pursuant to the public notice requirements of King County Code (KCC) Section 20.20, the applicant posted the subject property with the Notice of Application (NOA) February 18, 2020. The public notice was mailed to surrounding property owners, agencies, and tribes on February 28, 2020 with a public comment period that concluded March 25, 2020. Notice was also published in the Seattle Times and Sammamish Report Newspapers February 29, 2020.

Prior to filing for a CUP, the code requires that a preapplication meeting and a community be held. The required CUP pre-application meeting PREA19-0019, was held on April 23, 2019. At the meeting, the Permitting Division staff with the AT&T representatives, discussed the proposal to clarify technical details and discuss compliance of this proposal with the applicable King County comprehensive plans, codes, and policies.

The applicant held the required CUP community meeting on the evening of December 6, 2019 at the Fall City Library located at 33415 SE 42<sup>nd</sup> Pl , Fall City ,WA 98024. Permitting Division staff was present, and four members of the community attended. At the meeting, the applicant described the project to members of the community who attended. The community topics centered around four major points: Health/location Impacts; Visual Impacts; Notification of additional providers (Co-Location); and impacts of 5G network technology. An account of this meeting was provided with the CUP application.

The applicant submitted revised plans and documents on March 30, 2021 slightly altering the location of the tower and compound to avoid impacts to the existing septic system. This change is discussed in more detail under the Report Findings. Several months following the submittal of this CUP, the applicant applied for building permit ELEC20-0039 requesting concurrent review. The final revised CUP and Engineering plans with the Technical Information Report (TIR) was received December 13, 2021. See site plan under figure 1 below in Findings.

A substantially similar minor telecommunications facility was previously approved by Permitting under land use application L11CU006. However, the previous applicant (T-Mobile) failed to construct the tower before the CUP expired.

## **FINDINGS**

### **A. REQUEST BY APPLICANT:**

The CUP request is to allow construction of a new 150 foot tall minor telecommunication support structure (tower ). Towers up to 60 feet are allowed outright without a CUP, and the antennas to be located on the support structures are a permitted use. Following CUP approval, a building permit is required to install the facility. The applicant has a pending building permit ELEC20-0039 that is under concurrent review with the CUP. The building permit cannot be issued prior to CUP approval.

AT&T CUP narrative states it is proposing to build the new Facility to fill a significant gap in AT&T's 4G LTE coverage and capacity experienced by its customers in the surrounding area, including Beaver Lake Middle School and Challenger Elementary School to the northwest, Endeavor Elementary School to the southeast, and along major roads like SE Duthie Hill to the north and SE Issaquah Beaver Rd. to the west. In addition to AT&T 4G LTE commercial facilities, this proposed project will also provide an important public benefit by including facilities to support the FirstNet Nationwide Safety Public Broadband Network<sup>1</sup> ("FirstNet"). As a FirstNet site, this proposed Facility is part of a more significant initiative by AT&T to upgrade existing wireless sites and to build new sites to support FirstNet and deploy the new frequency band for first responders ("Band 14").

The property is 3.4 acres, with a ground equipment lease area or "compound" to measure 30' x 30', approximately 900 square feet. The compound will be enclosed by a 6 foot high chain-link slatted fence with a 10-foot wide landscape buffer installed on the outside of the fence perimeter. Ground equipment will include an 8' x 16' walk in equipment cabinet with generator. The applicant proposes to install 12 panel antennas, four sectors each, on the new tower. The facility location is proposed in the South-West area of the property. Proposed site improvements include extending the existing driveway with a 12-foot wide gravel access drive to the compound; landscaping; parking within the compound; and site drainage. The applicant explains this facility will support the continued expansion of the AT&Ts LTE network often referred to as 4G technology and deploy the nations FIRSTNET emergency responder communication system. The facility is designed for co-location by other wireless companies.

The applicants initial request included a reduced tower setback of 62'-11" feet (as measured to the poles centerline) from the south property line rather than 150 feet required by KCC 21A.27.030. The setback reduction is requested in order to locate the tower in an area where there are existing tall evergreen trees which will provide greater screening than if located centrally on



Sammamish.

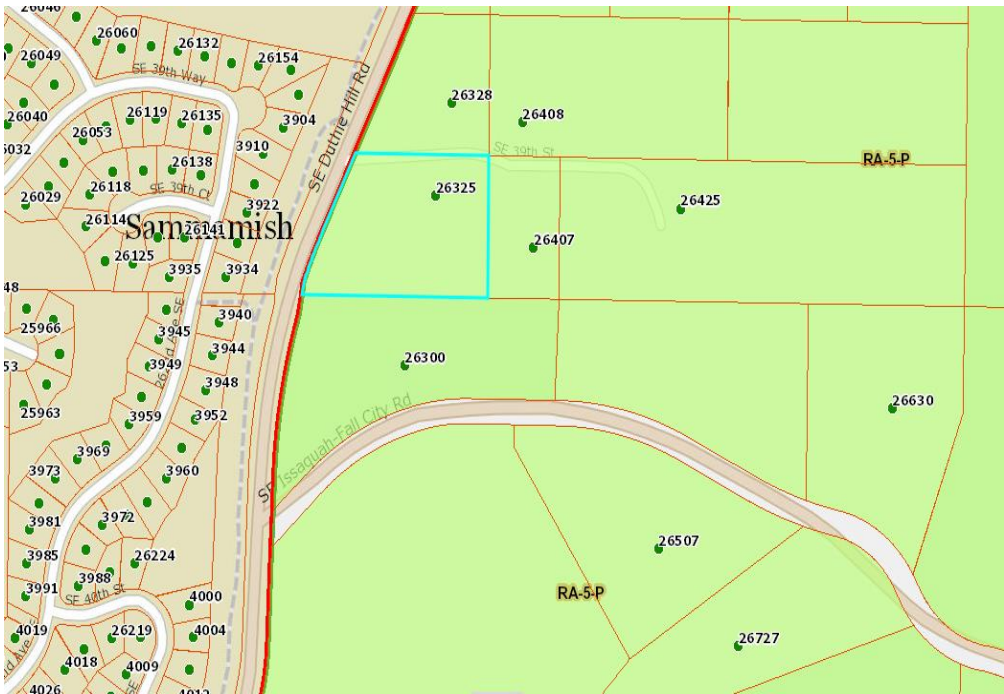


Figure 2 Reduced zoning map

2. Existing Development on the Subject Property and surrounding Area: The site is 3.4 acres and is currently developed with a residence, on site well and septic system, driveway and parking, and former veterinary clinic. The property is surrounded by low-density residential development . The predominate land use in the immediate area consists of residential homes on large, wooded lots. Property to north and east is developed with residential homes, and a large, wooded King County Park with parking is located directly to the south.



Figure 3 Aerial Map

3. Physical Land Characteristics: The subject property is located on a semi-forested open field, with generally level slopes.
4. Critical Area Features: No mapped Critical Areas are noted for the site.
5. Utilities: The site has an existing well and septic system. As an unmanned facility, the proposed minor telecommunications facility site will only utilize electricity, no water or septic.
6. Access: The property fronts on SE Duthie Hill Road to the west. The site will be accessed from SE 39<sup>th</sup> Street, via a proposed driveway extension off the property owners existing driveway.
7. Drainage: The site is located at the southeast corner of Duthie Hill Road and SE 39<sup>th</sup> Street. The site slopes both northwesterly and easterly from a local topographic high point located in the southwest quadrant of the project site. The average northwesterly slope is 3.35% and the average easterly slope is 0.37%. Currently the onsite stormwater disperses in an easterly direction, conveying runoff via sheet flow and natural infiltration from the local topographic

high point. Runoff continues down to the Canyon Creek and eventually flows to the southeast to Patterson Creek. Conceptual drainage engineering plans and Technical Information Report (TIR) have been reviewed under this CUP. The final revised CUP/Engineering plans and TIR were received December 13, 2021. The Permitting Divisions Engineer approved and signed these final plans/TIR December 14, 2021.

- 8. Impervious Surface: The subject property is 3.4 acres, and the proposal will increase the sites impervious surface to 15.6% . The maximum impervious surface allowed for non-residential land uses in the RA zone 40% (KCC 21A.12.220).

D. APPLICABLE KING COUNTY CODES:

**21A.26 Development Standards- Communication Facilities**

**21A.26.030 Applicability.** The standards and process requirements of this chapter supersede all other review process, setback or landscaping requirements of this title. All communication facilities that are not exempt under K.C.C. 21A.26.020 shall comply with this chapter as follows:

- ... A. New communications facilities, with the exception of consolidations, shall comply with K.C.C 21A.26.020 through 21A.26.130 and K.C.C. 21A.26.160 through 21A.26.190;
- ... D. New, modified or consolidated minor communication facilities shall comply with the standards of this chapter and K.C.C. chapter 21A.27. In the case of a conflict between this chapter and K.C.C. chapter 21A.27, the provisions of this chapter shall apply.

**Comment:** Construction of a minor communication facility transmission support structure greater than 60 feet in height in the RA zone is a permitted use, provided the applicant can demonstrate compliance with the criteria for a Conditional Use Permit and the other applicable standards contained in KCC 21A.26 and 21A.27.

**21A.26.050 Setback requirements.** Except as outlined for modifications and consolidations pursuant to K.C.C. 21A.26.140 and 21A.26.150 or when setbacks are increased to ensure compliance with NIER exposure limits, communication facilities shall comply with the following setbacks:

- ... B 2. Transmission structures for minor communication facilities shall be set back from the property line as provided in K.C.C. 21A.27.030
- ... D. Transmitter buildings shall be subject to the setback requirements of the zone in which they are located.

**21A.26.060 Landscaping requirements.** A communication facility site shall provide landscaping as follows:

- A. When the facility is located in:
  - ... 3. The R, UR or RA zone, the base of any transmission structure or transmitter building shall be landscaped with ten feet of Type I landscaping as defined by KCC 21A.16.040A.
- B. When a security fence is used to prevent access onto a transmission structure or transmitter building, any landscaping required pursuant to K.C.C. 21A.26.060A shall be placed outward of such security fence.
- C. When a security fence is used:
  - ... 2. In the R, UR or RA zone, climbing evergreen shrubs or vines capable of growing on the fence shall supplement any landscaping required pursuant to K.C.C. 21A.26.060A.

**21A.26.070 Color and lighting standards.** Except as specifically required by the Federal Aviation Administration ("FAA") or the FCC, transmission structures shall:

- A. Use colors such as grey, blue or green which reduce their visual impacts; provided, wooden poles do not have to be painted; and
- B. Not be illuminated, except transmitter buildings may use lighting for security reasons which is compatible with the surrounding neighborhood.

**21A.26.080 Fencing and NIER warning signs.** Communication facility sites shall be:

- A. Fenced in a manner which prevents access by the public to transmission structures and/or areas of the site where NIER or shock/burn levels are exceeded. This may be modified if natural features, such as an adjoining waterway, or a topographic feature preclude access;

**21A.26.090 Interference.** Permit applications for communication facilities shall include:

- A. A statement describing the nature and extent of interference which may be caused by the

proposed communication facility and the applicant's responsibilities under FCC rules and regulations.

21A.27 Development Standards -Minor Telecommunication Facilities

21A.27.010 Preapplication community meetings. When a new transmission support structure is proposed, a community meeting shall be convened by the applicant prior to submittal of an application.

21A.27.020 Review process. Minor communication facilities shall be reviewed as follows:

MINOR COMMUNICATION FACILITIES - REVIEW PROCESS		
Zone District(s)	Antenna	Transmission Support Structure
I, RB, CB NB, O	P	P C <sup>1</sup>
F, M	P	P C <sup>1</sup>
UR, RA, A	P	P <sup>2</sup> C <sup>1</sup> and 2
R1 - R48	P	P C <sup>1</sup>

P - Permitted Use  
C - Conditional Use  
<sup>1</sup> If the proposal exceeds the development standards of this chapter contained in K.C.C. 21A.27.030 for transmission support structures, the proposal shall be reviewed through this process.

21A.27.030 Development standards for transmission support structures. A new transmission support structure exceeding the standards of this section are subject to the conditional use permit process as outlined in K.C.C. 21A.27.020.

MINOR COMMUNICATION FACILITIES - DEVELOPMENT STANDARDS		
Zone District(s)	Height and Location Of Tower	Setbacks 1
I	140 feet high	50 feet (or one foot setback for every one foot in height) from any UR, RA, A, or R1 - R48 zone property, whichever provides the greatest setback
RB, CB	120 feet high	SAME AS ABOVE
NB, O, UR, RA, A, R1 - R48	60 feet high	SAME AS ABOVE
F, M	140 feet high	SAME AS ABOVE

<sup>1</sup>Setbacks may be modified to achieve additional screening, see K.C.C. 21A.27.040 or as provided in K.C.C. 21A.26.050.

21A.27.040 Visual compatibility standards. With consideration to engineering and structural requirements, and the coverage patterns the provider is seeking to achieve, minor communication facilities shall be subject to the following visual compatibility standards in addition to K.C.C. 21A.44.040.

... C. The setback provisions of K.C.C. 21A.27.030 may be waived by the department or the examiner, in order to achieve greater levels of screening than that which would be available by using the stated setback, during the course of the review process described in K.C.C. 21A.27.020. In waiving the requirement, the department or examiner shall consider the protection of adjacent lands on the basis of the priorities stated in subsections A. and B. of this section. (Ord. 13129 § 5, 1998. Formerly K.C.C. 21A.26.330).

21A.27.050 Visual impact - additional standards to reduce degree. The department shall also consider the following criteria and give substantial consideration to on-site location and setback flexibility authorized in K.C.C. 21A.27.040.C. when reviewing applications for new free-standing towers and determining appropriate levels of mitigation: A. Whether existing trees and vegetation can be preserved in such a manner

that would most effectively screen the proposed tower from residences on adjacent properties.

**21A.27.080 Colocation.** A. Upon application for a conditional use permit or a building permit for a new freestanding tower, whichever is required first, the applicant shall provide a map showing all existing transmission support structures or other suitable nonresidential structures located within one-quarter mile of the proposed structure with consideration given to engineering and structural requirements.

**Comment:** The proposed tower is 150 in height which requires a 1:1 setback of at least 150 feet to property lines in all directions. The code in KCC 21A.27.040, allows a reduced setback to achieve additional screening. The applicant has requested a setback reduction to 62’-5” to locate the proposed tower closer to the south property line in a more secluded, evergreen-wooded area, with better screening opportunities. As shown on the applicants revised site plan and noted in the plan excerpt below, setbacks are well over 150 feet except to the south where a reduced setback of 62’-5” is requested in order to optimize screening by using existing vegetation:

	SETBACKS			
	NORTH	SOUTH	EAST	WEST
NEW MONOPOLE	270'-7"	62'-5"	329'-5"	180'-10"
NEW WIC	262'-9"	61'-10"	336'-7"	165'-10"
NEW FENCE	255'-7"	47'-5"	314'-5"	165'-10"

The applicant’s proposal provides the required landscape buffer, fencing, colocation potential, color standards, warning signage, and enclosure of the emergency backup generator to meet County sound levels.

AT&T identified and evaluated one possible alternative site near the location for the proposed new Facility. However, this tower site was found infeasible for collocation due to the current loading on the tower and the limited availability of tower space, which limits the highest available antenna tip height for AT&T’s antennas. Pursuant to AT&T’s RF engineering analysis, an antenna tip height of even 130 ft is insufficient to meet AT&T’s service objectives within the Targeted Service Area. Additionally, because there are already existing carriers located on the existing tower, collocation would present future operational challenges and inhibit future carrier enhancements needed for maintenance of the FirstNet Network.

It is noted that under the provisions in *The Telecommunications Act of 1996* dated February 8,1996, King County no longer has authority to regulate placement of this facility on the basis of the environmental effects of radio frequency emissions. See the Other Considerations section in this Report for further discussion.

**21A.44.040 Conditional use permit.** A conditional use permit shall be granted by the county, only if the applicant demonstrates that:

A. The conditional use is designed in a manner which is compatible with the character and appearance of an existing, or proposed development in the vicinity of the subject property;

B. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;

C. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

D. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title;

E. The conditional use is not in conflict with the health and safety of the community;

F. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood;

G. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and

H. The conditional use is not in conflict with the policies of the Comprehensive Plan or the basic purposes of this title. (Ord. 15032 § 51, 2004; Ord. 11621 § 108, 1994; Ord. 10870 § 625, 1993).

**Comment:** The proposed location of the Tower on the Property utilizes the existing trees in the area of the southern and western property lines to optimize the screening of the proposed Facility from the adjacent public park and public roadway. The proposed setback reduction is requested so the facility can locate in this more densely treed area. This location is further away from existing homes to the north and east, being closer to the adjacent park and parking lot to the south. Many of the properties to the south, north and east have stands of trees or windbreaks along their boundaries which break up the skyline. The character of these unincorporated properties in the vicinity of the site is lower density, suburban-rural lots. The facility will use electricity and a backup generator in case of a power outage emergency. The enclosure of the backup generator will serve to mitigate potential noise impacts. Sound levels are regulated under Title 12 – Public Peace, Safety, and Morals, Section 12.86.

**KCC 21A.12.220** Nonresidential land uses in residential zones. Except for utility facilities, uses listed in K.C.C. 21A.08.100, and nonresidential uses regulated by 21A.12.230, all nonresidential uses located in the RA, UR, or R zones shall be subject to the following requirements:

- A. Impervious surface coverage shall not exceed:
  - 1. Forty percent of the site in the RA zone.
- B. Buildings and structures, except fences and wire or mesh backstops, shall not be closer than 30 feet to any property line, except as provided in subsection C.
- D. Parking areas are permitted within the required setback area from property lines, provided such parking areas are located outside of the required landscape area.
- E. Sites shall abut or be accessible from at least one public street functioning at a level consistent with King County Road Design Standards. New high school sites shall abut or be accessible from a public street functioning as an arterial per the King County Design Standards.
- F. The base height shall conform to the zone in which the use is located.
- G. Building illumination and lighted signs shall be designed so that no direct rays of light are projected into neighboring residences or onto any street right-of-way. (Ord. 11802 § 5, 1995; Ord. 11621 § 44, 1994; Ord. 10870 § 359, 1993).

**Comment:** The drawings for the CUP address these requirements. More detailed zoning code review and compliance will occur under the commercial building permit ELEC20-0039.

E. COMPREHENSIVE PLAN POLICIES:

The area is designated as Rural Area under the King County Comprehensive Plan (KCCP) 2016 update (Ordinance 18427), updated July 24, 2020:

B. Telecommunications

1. Telecommunications Telecommunication technologies are changing rapidly and will continue to change during the horizon of this plan. The future telecommunication system may make little distinction between cable, telephone and cellular. Telecommunication services include voice, data, video and other communication services on various mediums including, but not limited to, wire, fiber optic or radio wave. Effective telecommunications services are critical to residents in several ways. They promote and enhance individual information exchange, contribute to a robust regional economy, and afford numerous public services, including delivery of emergency services, education and opportunities for community involvement.

**KCCP Policy F-345** Telecommunication services are to be encouraged as a means to mitigate the transportation impact of development and growth, including Greenhouse Gas Emissions.

**KCCP Policy F-346** King County encourages the telecommunication service providers to engage in long-term planning for telecommunications construction, reconstruction, and facility upgrades, including provisions to ensure that the system’s capacity, design and equipment will allow users to take advantage of innovative uses, services and technology.

**KCCP Policy F-348** Long-term planning for telecommunications systems by the telecommunication service providers should allow uninterrupted service during natural disasters.

**KCCP Policy F-349** Co-location of telecommunication facilities is encouraged to reduce the unnecessary proliferation of individual, single-user towers. Co-location shall be required unless an applicant can demonstrate to the satisfaction of the county that collocation on an existing tower is not feasible and not consistent with service quality and access.

**KCCP Policy F-350** Although visual impacts are always an important consideration in the decision to approve or deny a proposal, King County shall give greater weight to the visual impacts of telecommunication facilities proposed to be located on residentially-zoned lands or in the Rural Area or Natural Resource Lands. In addition, the visual impacts of proposals for an individual tower with a single user shall be given greater weight than proposals to collocate facilities.

**KCCP Policy R-326(c)** New community facilities and services that primarily serve rural residents shall be located in neighboring cities and rural towns, with limited exceptions when their use is dependent on a rural location and their size and scale supports rural character.

**Comment:** The proposed conditional use is characterized as a minor communication facility.

As stated previously in this report, the applicant identified and evaluated one possible alternative site near the location for the proposed new Facility. However, this tower site was found infeasible for collocation due to the current loading on the tower and the limited availability of tower space, which limits the highest available antenna tip height for AT&T's antennas. Pursuant to AT&T's RF engineering analysis, an antenna tip height of even 130 ft is insufficient to meet AT&T's service objectives within the Targeted Service Area. Additionally, because there are already existing carriers located on the existing tower, collocation would present future operational challenges and inhibit future carrier enhancements needed for maintenance of the FirstNet Network.

#### **OTHER CONSIDERATIONS:**

1. Pursuant to the State Environmental Policy Act (SEPA) the responsible official of Dept of Local Services, Permitting Division, has determined that the proposed transmission support structure, when built in compliance with applicable codes and standards and under the conditions of approval contained in the CUP Decision, will not result in a significant adverse environmental impact.
2. The final revised CUP/drainage engineering plans, and Technical Information Report (TIR) were received December 13, 2021. These are conceptual under the CUP land use permit and will be finalized for construction under the building permit ELEC20-0039. The Permitting Divisions Engineer approved and signed these plans and TIR December 14, 2021. As a non-residential use with over 2,000 square feet of new impervious surface, the proposed project will need to undergo full targeted drainage review with enhanced basic water quality treatment in the subsequent building permit. The applicant has submitted building permit ELEC20-0039 for concurrent review with this CUP. The drainage design will be reviewed to the standards of the current King County Surface Water Design Standards (KCSWDS) in effect under the building permit.
3. Per KCC 21A.27.030, the code allows a tower that is setback 50 feet from the property line to be 60 feet tall, plus one additional foot tall for each additional foot of setback. Under this scenario, a 150-foot tall structure would need to setback 150 feet from a property zoned RA. The proposed tower will setback greater than 150 feet in all directions except to the south.
4. Per KCC 21A.27.040.C, the code allows a reduced setback in order to achieve greater levels of screening than that which would be available otherwise. The applicant has requested a reduced setback from the south property line of 62 feet- 5 inches applying this code provision.
5. Under the provisions in The Telecommunications Act of 1996 dated February 8, 1996, King County no longer has authority to regulate placement of this facility on the basis of the environmental effects of radio frequency emissions. The Federal Communications Commission (FCC) has stated in Section 704 (B)(1v) 'No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service

facilities on to the extent that such facilities comply with the Commission's regulations concerning such emissions. The applicant has provided calculations for radio frequency emission levels. The total radio frequency emissions is within the limits allowed under FCC regulations.

6. During the comment period Permitting received several email comments from surrounding unincorporated residents, as well as those living in the City of Sammamish to the east. One comment from a nearby neighbor expressed concern over the visual impact of the tower appearance and the potential to negatively affect property values. Other comments included questions about alternative sites and collocation options; visibility; health risks; and noise. Staff and the applicant responded to the email inquiries, outlining the project scope, King County Code references, and FCC information.
7. Public comments have been taken into consideration in the development of this CUP Decision. The Conditions of approval for the CUP and ELEC20-0039 will address setbacks, noise, tower/antenna color, site engineering, structural integrity, landscaping, and screening. The zoning code does not regulate impact of property values. The FCC, not King County, regulates placement of this facility on the basis of the environmental effects of radio frequency emissions.

## CONCLUSIONS:

1. Proposal is compatible with the character and appearance of existing uses in the vicinity and the physical characteristics of the subject property.
2. Proposal is not in conflict with the policies of the King County Comprehensive Plan (KCCP) and is consistent with the requirements of the King County Zoning Code, and King County Surface Water Design Manual (KCSWDM).
3. Proposal is consistent with KCCP telecommunication policies F-345 through F-350, and R-326( c ), by providing screening, setbacks, emergency back up in the case of an emergency, serving both the urban and rural king county areas, and by providing capacity for future colocations.
4. Under the provisions in The Telecommunications Act of 1996 dated February 8,1996, King County no longer has authority to regulate placement of this facility on the basis of the environmental effects of radio frequency emissions. The Federal Communications Commission has stated in Section 704 (B)(1v) 'No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on to the extent that such facilities comply with the Commission's regulations concerning such emissions.' The applicant has provided calculations for the worst-case radio frequency emission levels. The total radio frequency emissions complies with the FCC regulations.
5. The applicant has demonstrated that co-location on an existing transmission support structure is not feasible in the geographic area and the proposed facility is necessary to provide telecommunication service to the rural area. The provider is planning to create adequate support capacity at this site for future colocation, which will prevent future proliferation of new transmission support structures.
6. In accordance with KCC 21A.27.040.C, a reduced setback may be granted in order to achieve greater levels of screening than that which would be available otherwise. The applicant has requested a reduced setback from the south property line of 62 feet- 5 inches rather than 150 feet. The applicant has demonstrated they meet this code provision for a reduced setback in that the location will achieve greater levels of screening than if they centered the facility in the middle of the property. The reduced setback will safely provide greater screening of the proposed Facility from the surrounding area and public roadway. AT&T will use "break-point" engineering design to ensure that, in the unlikely event of a failure, the tower will collapse at a designed location to ensure the fall zone radius would not extend beyond the property line.
7. Granting of the requested CUP would not be incompatible with or detrimental to, the overall health and safety of the community. The use is not anticipated to have a measurable impact on local streets or roadway intersections in the vicinity.

**DECISION:** The CUP is hereby GRANTED subject to the following conditions:

1. A building permit shall be issued within four years of the transmittal date of this report. This period may be extended for one year pursuant to KCC 21A.42.090E.
2. Except as may be amended by these CUP conditions, development shall be in substantial conformance with the final revised CUP/Engineering plans received December 13, 2021. See the revised site plan attachment C to this report. Minor modifications may be approved by Permitting if consistent with KCC 21A.42.190.B.
3. The tower is approved for a maximum height of 150 feet, and a reduced setback to the south property line of up to 62'-5". The tower structural design under ELEC20-0039 shall incorporate "break-point" engineering design to ensure that, in the unlikely event of a failure, the tower will collapse at a designed location to ensure the fall zone radius would not extend beyond the property line.
4. Approval of the requested reduced tower set back of 62.5 feet is approved subject to the retention of the existing on-site trees identified in the red lined/clouded site plan annotated by Permitting staff, Attachment D to this CUP report. To ensure these trees are retained in perpetuity for as long as the facility is in place, a "tree retention plan-easement" agreement shall be recorded that prohibits the removal of these trees. This is as described in the applicants submitted document entitled Grant of Easement for Existing Tree Retention, Exhibit A (Received November 2, 2021), and:
  - a. The recorded easement agreement note that trees in this area will not be removed unless it can be demonstrated they are a "hazard trees". For the purpose of regulating a hazard tree, the following is applicable:
    - i. Hazard Tree- If a tree poses an "imminent hazard" to an area frequented by persons, then the tree can be removed without a clearing permit as it is exempt per King County Code chapter 16.82. Imminent hazard means the tree could fail at any moment. If the tree is a "hazard" meaning it has disease, structural defect, lean, etc., and it is not imminent, then the hazard needs to be documented by a certified arborist and a clearing permit is required.
  - b. The recorded easement shall be provided to Permitting prior to issuance of ELEC20-0039. The easement is to be held in perpetuity for as long as the tower facility is in place. Topping of these trees as needed may occur as noted on the preliminary revised CUP site plan. The recorded lease agreement between the property owner and the applicant AT&T to this effect shall be developed with a site plan delineating said trees as depicted in staffs redlined/clouded Attachment D to this CUP report. This shall be provided to Permitting for review and approval by staff under building permit application ELEC20-0039.
5. The development of this project is subject to all rules, regulations, policies, and codes that are not specifically modified by this approval.
6. If necessary, an updated lease agreement shall be included in the building permit application ELEC20-0039 to expand the lease site area to include the 10 foot wide landscape buffer.
7. The proposed slats to be used on the security chain-link fence shall be replaced with evergreen climbing shrubs or vines as required by code (KCC 21A.26.060.C.2).
8. Fences in excess of 6 feet in height will need to be reviewed for compliance with the International Building Code (IBC) at the time of building permit application ELEC20-0039 review.
9. Final engineering for drainage and road improvements will be reviewed for compliance with both the current King County Surface Water Management Plan and King County Road standards under the pending building permit ELEC20-0039.
10. As part of the final engineering review and approval under ELEC20-0039, a planting plan will be required that meets the KCSWDM Section C.2.1.1, #3A as well as Section C.2.1.8. The flow path segment must be over native vegetated surface or as converted surface. The

final Native Growth Retention Areas shall be as described in the applicants submitted document entitled Second Amendment to Option and Lease Agreement, Exhibit 1-B (Received November 2, 2021); and shall be reviewed and approved by Engineering during the Building Permit review under ELEC20-0039.

- 11. If exterior security lighting is proposed, an exterior photometric lighting plan will be required with the building permit ELEC20-0039 that demonstrates light levels will not exceed 1 fc (foot candle) at property lines.
- 12. Any non-exempt noise generated by this proposal shall be in conformance with the provisions contained in King County Code Title 12.

Ordered this 17th day of December 2021

DocuSigned by:  
  
229B56A364894EF...  
Mark T. Rowe, Deputy Division Director -Permitting

Date Mailed: December 17, 2021  
Date Appeal Period Ends: January 12, 2022

MAILED to the following Parties and Persons of Interest: See Attachment B.

ATTACHMENTS:

- Attachment A - Right to Appeal
- Attachment B – Parties and Persons of Interest
- Attachment C - Reduced Site plan
- Attachment D- Existing Tree Retention Easement Area Site Plan

**ATTACHMENT A**

**RIGHT TO APPEAL**

This action may be appealed in writing to the King County Hearing Examiner, with a fee of \$250 (check payable to King County Office of Finance).

Filing an **appeal by mail only** requires actual delivery of an appeal statement and an appeal fee to the King County Department of Local Services, Permitting Division prior to the close of business **4:00 p.m. on January 12, 2022.**

The appeal statement shall: 1) Include a copy of, or clearly identify, the decision being appealed; 2) Identify the location of the property subject to the appeal, if any; 3) Identify the legal interest of the appellant; 4) Identify the alleged errors in the decision; 5) State specific reasons why the decision should be reversed or modified; 6) State the harm suffered or anticipated by the appellant; and 7) Identify the relief sought.

Failure to submit a timely and complete appeal statement and the appeal fee deprives the Examiner of jurisdiction to consider the appeal. Appeals must be mailed to the Department of Local Services, Permitting Division addressed as follows:

**LAND USE APPEAL**  
**Department of Local Services - Permitting Division**  
**35030 SE Douglas St., Suite 210**  
**Snoqualmie, WA 98065-9266**

A request for a pre-hearing conference may be made by any party. For more information regarding appeal proceedings and pre-hearing conferences, please contact the Office of the Examiner at 206-477-0860 for a Citizens' Guide to the Examiner hearings and/or read K.C.C. 20.22. The Web address is: [http://metrokc.gov/council/HearingExaminer/guide\\_hearings.htm](http://metrokc.gov/council/HearingExaminer/guide_hearings.htm).

***King County Staff are working remotely. Permitting services will continue to be online and available on the [Permitting website](#) and [MyBuildingPermit.com](#).***

**ATTACHMENT B**

**PERSONS OF INTEREST AND PARTIES**

Transmitted to the following Persons of Interest and Parties for CDUP20-0002:

Ty Peterson, Commercial/Resource Product Line Manager, Dept. Local Services- Permitting

Norman Cabiao, Engineer, Dept. Local Services- Permitting

Nancy Hopkins Goree, Project Manager/Planner, Dept. Local Services- Permitting

Nancy Sears, Smart Link for AT&T- 11232 120<sup>th</sup> Ave NE #204, Kirkland, WA 98033

Amit Gupta- 3941 262nd Ave SE, Issaquah, WA 98029

Anagha and Kishore Chaliparambil- 26328 SE 39th street, Issaquah WA 98029

Paige, Young- SBA, 8051 Congress Ave , Boca Raton, Florida 33487-1307

Richard Busch - 25025 SE Klahanie Blvd, F203, Sammamish, WA 98029

Wenyi Cicim- Email: [cicimwy@gmail.com](mailto:cicimwy@gmail.com) (No mailing address)



## Attachment D- Existing Tree Retention Easement Area

