



## Staff Report

STAFF REPORT DATE: July 8, 2020

HEARING DATE: July 15, 2020

TO: Interested Parties

FROM: Sambo Kirkman, Senior Planner

PROPOSAL: **AT&T Small Cell at Nimbus  
WF2020-0011**

LOCATION: The site is located in the public right-of-way in the planter area adjacent to 9350 SW Nimbus Avenue.

ZONING / NAC: Office Industrial-Washington Square (OI-WS) / Greenway

SUMMARY: The applicant requests approval of a Type 3 Wireless Facility application for a new small cell wireless facility to be located in the public right-of-way along SW Nimbus Avenue.

APPLICANT: New Cingular Wireless PCS, LLC  
Wayne Wooten  
16331 SW 72<sup>nd</sup> Way  
Redmond, WA 98052

APPLICANT'S:  
REPRESENTATIVE J5 Infrastructure Partners  
Meredith Hewett  
2030 Main Street, Suite 200  
Irvine, CA 92614

RECOMMENDATION: **APPROVAL of AT&T Small Cell at Nimbus WF2020-0011,**  
subject to conditions of approval herein.

## BACKGROUND FACTS

### Key Application Dates

Application	Submittal Date	Application Deemed Complete	90-Day*
WF2020-0011	April 30, 2020	April 30, 2020	July 29, 2020

\* Pursuant to the Federal Communication Facility Order No. 18-133 new small cell facilities are to be processed within 90-days of submittal. This is the latest date by which a final decision on the proposal can be made without a tolling agreement.

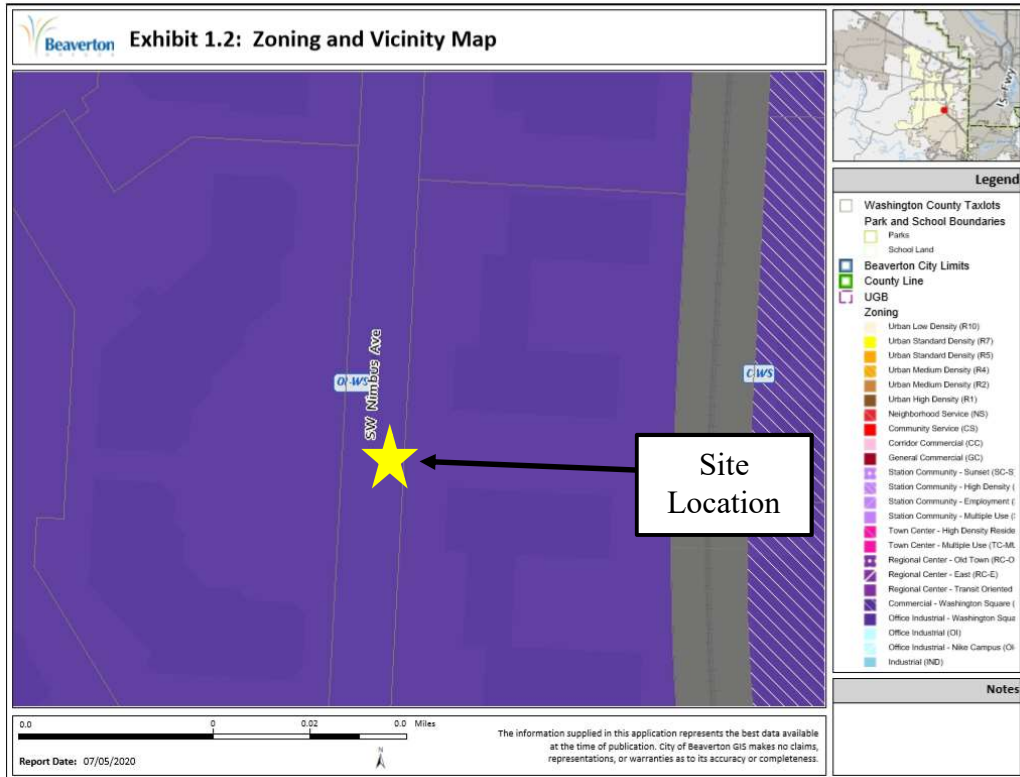
### Existing Conditions Table

<b>Zoning</b>	Office Industrial – Washington Square (OI-WS)	
<b>Current Development</b>	Right-of-Way	
<b>Site Size &amp; Location</b>	The site is located in the public right-of-way in the planter area adjacent to 9350 SW Nimbus Avenue	
<b>NAC</b>	Greenway	
<b>Surrounding Uses</b>	<b>Zoning:</b> North: OI-WS South: OI-WS East: OI-WS West: OI-WS	<b>Uses:</b> North: OI-WS South: OI-WS East: OI-WS West: OI-WS
	South: OI-WS	South: Commercial
	East: : OI-WS	East: Commercial
	West: : OI-WS	West: Commercial

### FCC Regulation:

In September 2018, the Federal Communication Commission (FCC) issued a declaratory ruling and order that impacted city control of small cell wireless facility installations. The FCC's authority to interpret Sections 253 and 332 to place limitations on local design regulations and require cities to approve small cell facilities within 60 days for installations on an existing structure or 90 days for installations on a new tower structure. The time period for a local government to approve an application, also known as the shot clock, requires local government to complete all aspects of review necessary to issue a permit for construction of a small cell facility, not just land use approval. The City established a consolidated small cell approval process that encompasses the permit requirements from all divisions within the City. Updates to Beaverton's Development Code (BDC) are underway to remove the review of small cell facilities in the right-of-way from the BDC and re-establish under a non-land use process. Until the new regulations are in place, the current review process is being modified to comply with the FCC's regulations including the shorter review time.

# ZONING/VICINITY/AERIAL MAP



## DESCRIPTION OF APPLICATION AND TABLE OF CONTENTS

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<b><u>Attachment A:</u></b>	<b>WF2020-0011</b>	WF1 – WF10
<b><u>Attachment B:</u></b>	<b>Conditions of Approval</b>	COA1

### **Exhibits**

**Exhibit 1.      Materials submitted by Staff**

Exhibit 1.1    Vicinity Map (page SR-3 of this report)

Exhibit 1.2    Aerial Map (page SR-3 of this report)

**Exhibit 2.      Materials submitted by the Applicant**

Exhibit 2.1    Submittal Package including plans (On file at City Hall)

**Public Comment**

No public comments received as of the date of Staff Report issuance.

**Analysis & Findings for  
Wireless Communication Facility-Three  
WF2020-0011 – AT&T Small Cell at Nimbus**

Section 40.96.15.3.C Approval Criteria:

*in order to approve a Wireless Facility Three application; the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:*

- 1. The proposal satisfies the threshold requirements for a Wireless Facility Three application.**

Facts and Findings:

The applicant requests approval of a Type 3 Wireless Facility application for a new small cell wireless facility to be located in the public right-of-way along SW Nimbus Avenue. The street classification of SW Nimbus is a Collector street. The request meets Threshold # 5 which reads:

*“In any zoning district, installation of wireless communication facilities on streetlights or utility poles within or adjacent to the right-of-way of designated Collector Streets, Neighborhood Route Streets or Local Streets.”*

**Therefore, staff finds that the proposal meets the criterion for approval because installation is proposed to be on a streetlight on a Collector Street.**

- 2. All City application fees related to the application under consideration by the decision making authority have been submitted.**

Facts and Findings:

The FCC established baseline fees \$100 for small cell application fees; cities may justify different fees only on a cost basis. Staff completed a cost analysis to estimate the cost of processing a comprehensive small cell application for all needed permits and determined the cost to be approximately \$3,548. To comply with the FCC regulations, the City established a deposit amount (\$3,548) and is tracking the cost of the processing these types of applications and will capture these cost accordingly.

**Therefore, staff finds that the proposal meets the criterion for approval because the applicant paid the required small cell deposit of \$3,548.**

- 3. In relationship to the existing surroundings and future allowed uses, the location, size, shape, height, spatial and visual arrangement of the use and structure is compatible.**

Facts and Findings:

The applicant states the proposed structure is compatible with the current existing structure and surroundings. The proposal is to replace the existing streetlight with a new pole that contains the street light and the small cell facility internal to the pole.

Location: The proposed location is in the planter strip area of the right-of-way. The applicant has worked with City staff to locate the new pole to ensure it does not interfere with the existing vehicular or pedestrian connections along SW Nimbus or the abutting driveway. The design is such that the facility is compatible to the other street lighting located along the roadway.

Size, Shape, and Height: The applicant proposes a 30 foot metal pole with a diameter of 15 inches. The existing light poles along SW Nimbus are concrete poles, the proposed pole allows for the antennas and equipment to be placed within the pole, concealing the use of the pole as a small cell facility. The existing height of the concrete pole is 25 feet while the proposed pole is 30 feet to accommodate the antenna. The street light to be placed on the pole is consistent with the lighting pole styles used by the City. The height is within the maximum allowed in this OI-WS zoning district and the five-foot height increase compared to the other streetlights in the area will be unobtrusive.

Visual Arrangement: The applicant's photo simulation shows the proposed small cell facility would be internal to a metal streetlight pole that would replace an existing concrete light pole on SW Nimbus. The photo simulations show that the proposed design will effectively conceal the small cell facility by incorporating it as part of the streetlight pole.

Staff finds that the proposed WCF location adequately mitigates the visual impact of the tower and is reasonably compatible with the surrounding area.

**Therefore, staff finds that the proposal meets the criterion for approval.**

**4. The size dimensions, configuration and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.**

Facts and Findings:

The applicant states the size, dimensions, configuration and topography of the site and accommodate the proposal. The proposed facility would be located within the public right-of-way on SW Nimbus in the planter strip area. The antenna and associated supporting equipment would be located within the replacement light pole. The right-of-way is relatively flat with minimal grading needed to install the new pole. No trees would be removed with the proposed development.

Staff finds that the size, configuration and topography of the site, natural and man-made features on the site can reasonably accommodate the proposal.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 5. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.**

Facts and Findings:

The applicant states that the proposal would not obstruct any existing or approved vehicular, pedestrian or bicycle connection identified in the Comprehensive Plan. Staff concurs with the applicant's findings since the small cell facility would be located within the planter area of the existing right-of-way

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 6. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.**

Facts and Findings:

The applicant does not propose to remove any trees of significant size and species.

**Therefore, staff finds that the criterion is not applicable to this request.**

- 7. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.**

Facts and Findings:

The applicant states no grading is required for the proposed design. Staff concurs that grading is not expected to impact the site beyond the installation of the new pole and will not adversely affect natural vegetation or the physical appearance of the site.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 8. That the quality, location, size and aesthetic design of walls, fences, berms, hedges, screen planting and landscape areas have minimal adverse effects on existing or approved abutting land uses.**

Facts and Findings:

The applicant states no walls, fences, berms, hedges, screen planting or additional landscape are part of the proposed design. The proposed location is within the public right-of-way. The small cell facility would be installed interior to the pole, no additional structures are required.

**Therefore staff finds the criterion is not applicable to this proposal.**

- 9. All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion.**

Facts and Findings:

The applicant states all critical facilities and services related to the development will have adequate capacity to serve the proposed design at the time of its completion. The small cell facility will require power and communication services that are proposed underground.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 10. The proposal is consistent with all applicable Site Development Requirements of Sections 20.05, 20.10, 20.15, and 20.20 of the Development Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.**

Facts and Findings:

The applicant states the proposal is consistent with all applicable site development requirements of Development Code Chapter 20 - Land Use. Staff cites the code conformance chart herein, which shows compliance with the applicable standards of Chapter 20, in addressing the above mentioned criteria.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 11. The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.**

Facts and Findings:

The applicant states the proposal is consistent with applicable provisions of Development Code Chapter 60 – Special Requirements. Staff cites the Code Conformance Analysis chart herein, which evaluates the proposal as it relates to the applicable Code requirements of Chapter 60, in addressing the above mentioned criteria.

**Therefore, staff finds that by meeting the conditions of approval, the criterion is met.**



- 12. The proposal does not conflict with any existing City approval, except the City may modify prior approvals through the WCF process to comply with federal laws.**

Facts and Findings:

This proposal does not affect or conflict with any existing City approval. Construction of a small cell facility is a permitted use in the OI-WS zone, subject to approval through this application.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 13. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.**

Facts and Findings:

The applicant submitted the application on April 30, 2020. In review of the materials during the application review, staff finds that all applicable application submittal requirements, identified in Section 50.25.1 are contained within this proposal.

**Therefore, staff finds that the proposal meets the criterion for approval.**

- 14. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in proper sequence.**

Facts and Findings:

The applicant has submitted the required application materials for review of a Wireless Facility Three application. Federal requirements limit time allowed for the City to approve a small cell facility. The City established a consolidated review process which encompasses the permit requirements from all divisions within the City. Staff finds that applications and documents related to the related permits that require further City approval have been submitted in proper sequence.

**Therefore, staff finds that the proposal meets the criterion for approval.**

**Code Conformance Analysis Use and Site Development Requirements  
Office Industrial – Washington Square (OI-WS)**

<b>CODE STANDAR</b>	<b>CODE REQUIREMENT</b>	<b>PROJECT PROPOSAL</b>	<b>MEETS CODE</b>
<b>Development Code Section 20.05.15</b>			
Maximum Height in R-O-W	30-feet	30-feet	<b>Yes</b>
Maximum Height Equipment Shelters	12 feet	Equipment is to be located internal to the pole.	<b>N/A</b>
Setbacks	Front: 10 feet Side: 10 feet Rear: None	The proposal is to locate a small cell facility in the public right-of-way. Setback back requirements do not apply as there are no property lines associated with the right-of-way.	<b>N/A</b>
<b>Development Code Section 20.05.20</b>			
New WCF on streetlights in the right-of-way	Wireless Facility Type 3 approval when located on streetlights or utility poles in the right-of-way of designated Collector	The applicant's proposal is to replace an existing street light with a new pole containing a small cell facility on SW Nimbus a Collector street.	<b>Yes</b>

## Chapter 60 – Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
<b>Development Code Section 60.70.35 Development Standards for WCF</b>			
60.70.35.1 General	Top Hat antenna arrays are prohibited.	The applicant proposes the use of antennas internal to the pole structure.	<b>Yes</b>
60.70.35.2 Height	The max height of any new WCF tower, WCF antenna collocation or both shall conform to the maximum height...	Maximum height in the OI-WS zoning district, specified in Chapter 20 of the Development Code, for a wireless facility in the right-of way is 30-feet. The applicant proposes a tower with a maximum height, including the antennae, of 30-feet.	<b>Yes</b>
60.70.35.3 Lighting	The installation of light fixtures to a WCF tower is prohibited unless required by FAA or ODA.	The applicant does not propose to install light fixtures on the WCF tower, outside of the required replacement streetlight.	<b>N/A</b>
60.70.35.4 Signage	A) Specific identification signage requirements. B) No logos or advertising signage permitted.	The applicant's plan shows that the required emergency signage will be included and no other signage is permitted.	<b>Yes</b>
60.70.35.5 At-Grade Equipment Screening	At-Grade equipment must be screened by a site obscuring fence...	The applicant's plan shows equipment associated with the small cell facilities are to be located internal to the streetlight pole.	<b>N/A</b>
60.70.35.6 Evergreen Trees	The decision making authority may require evergreen trees at their discretion for properties abutting residential...	The applicant's plan shows the small cell facility is to be located internal to the streetlight pole. No plantings are proposed with this proposal	<b>N/A</b>
60.70.35.7 Required Plantings	Required plantings shall be irrigated and maintained.	The applicant's plan shows the small cell facility is to be located internal to the streetlight pole. No plantings are proposed.	<b>N/A</b>

60.70.35.8 Visual Impacts	Decision making authority decides if the tower must be painted or non-reflective metal.	The applicant proposes a gray street light pole.	<b>Yes</b>
60.70.35.9 Noise	Noise generating equipment shall be sound buffered to reduce sound levels at the property line.	The proposal does not include information pertaining to noise generated by the proposed equipment. Staff recommends a condition that prior to issuance of the permit verification that the noise levels will meet DEQ requirements .	<b>Yes, with COA</b>
60.70.35.10 Stealth Design	Specific thresholds in Chapter 40 provide for stealth design ...	The applicant's proposal to replace an existing streetlight pole with a new pole containing the small cell facility internally provides for stealth design.	<b>Yes</b>
60.70.35.11-13 Building, Roof, Wall and Structure Mounted Antennas	Standards for antennas attached to buildings, roofs or structures, except WCF towers.	The applicant does not propose building, roof or structure mounted antennas.	<b>N/A</b>
60.70.35.14 Setbacks	A. Setbacks shall comply with the underlying standards of the zoning district. B. New WCF towers shall be setback from all property lines... C. New WCF towers located on Commercially or Industrially zoned...	As addressed in the Chapter 20 Code Conformance Analysis, the proposal is located within the public right-of-way, the setbacks to the property lines do not apply.	<b>N/A</b>
60.70.35.15 Parking	A minimum of one (1) readily accessible parking space shall be provided...	The proposal is to place the small cell facility in the public right-of-way, no parking spaces are proposed for the site. Coordination with the City's Public Works Department will be required for work within the right-of-way similar to what is expected with other utilities in the right-of-way.	<b>N/A</b>

60.70.35.16 Clustering of Towers	Clustering of towers shall be prohibited in Residential and Multiple Use Zones.	The applicant does not propose to cluster towers. The request is to replace an existing streetlight with a new pole containing both the light and the small cell facility.	<b>Yes</b>
60.70.35.17 Collocation Capacity	Collocation Capacity. New WCF towers and associated site area shall be designed to accommodate a minimum of one (1) additional future service...	The proposal is not a new WCF tower, but is a collocation on an existing streetlight.	<b>N/A</b>
60.70.35.18 Standards for Multiple Use Zones	Specific standards for WCF in Multiple Use Zoning Districts.	The subject site is zoned OI-WS a multiple use zone. The facility is to be located within the public right-of-way and the equipment and cables are to be located internal to the street light pole. The proposed design will meet the standards of this section.	<b>N/A</b>
60.70.35.19 Standards for WCF in Public ROW	Specific standards for WCF in the Public ROW:	<p>The proposed WCF is located in the public right-of-way and includes the following design elements to meet the standards of this section:</p> <ul style="list-style-type: none"> <li>• The proposed pole is replace an existing streetlight pole designed to ensure integrity of the replaced light fixture and new WCF.</li> <li>• Antenna and equipment are internal to the pole (complete stealth design).</li> <li>• Height is less than 30 feet.</li> <li>• Not on a Traffic Signal</li> <li>• Noise levels, vibration, odor to be conditioned.</li> <li>• Diameter of the pole is 15 inches</li> <li>• Not to be installed on a traffic signal, ornamental pole, or on a historic structure or site.</li> <li>• The proposed small cell equipment is internal to the pole.</li> </ul>	<b>Yes, with COA</b>

60.70.40	Development Standards for Satellite Antennas	Satellite antennas are not proposed.	<b>N/A</b>
60.70.45	Requirements for Non-Exempt Amateur Radio Facilities	Non-Exempt Amateur Radio Facilities are not proposed.	<b>N/A</b>
60.70.50.1 Required Studies and Information	Required studies and information...visual impact report, written summary of the findings of the visual analysis...	The applicant has submitted a photo simulation showing the design replaces the existing streetlight at the site with a new pole that conceals the small cell facility. Pursuant to the requirements of the FCC, the City has consolidated the review of the small cell facilities, all other required information requested by the other City Divisions have been provided.	<b>Yes</b>
60.70.60 Collocation Protocol	The applicant shall show proof satisfactory to the City that it has made reasonable inquiries at potential sites for collocation that would otherwise meet the applicant's need for signal coverage.	The existing streetlight will be replaced with a new pole to ensure the integrity of the structure and to place the small cell facility internal to the structure. Future collocation would warrant additional review by the carrier on the ability for the replacement pole to handle additional collocation. The proposed design collocates a small cell facility with a street light pole, thereby meeting this standard.	<b>Yes</b>

### **RECOMMENDATION**

Based on the facts and findings presented, staff recommends **APPROVAL** of **WF2020-0011 AT&T Small Cell at Nimbus**, subject to the applicable conditions identified in Attachment B.

**RECOMMENDED CONDITIONS OF APPROVAL  
AT&T Small Cell at Nimbus  
(WF2020-0011)**

1. In accordance with Section 50.90.1 of the Development Code, Wireless Facility Three land use approval shall expire after two (2) years from the date of approval unless prior to that time a construction permit has been issued and substantial construction has taken place, or an application for extension is filed pursuant to Section 50.93, or that authorized development has otherwise commenced in accordance with Section 50.90.3.B. All other expirations associated with the small cell application applies. (Planning/SK)
2. All construction shall be carried out in accordance with the site plan and elevations as approved by the Planning Commission, on file at City Hall. (Planning/SK)
3. Prior to issuance of the Small Cell Permit the applicant shall confirm noise-generating equipment shall be sound-buffered by means of baffling or structural barriers to reduce the sound level measured at the property line abutting Multiple Use zoning districts and shall meet the standards established by the State of Oregon Department of Environmental Quality.(Planning/SK)
4. Prior to issuance of the Small Cell Permit the applicant shall confirm the small cell facility does not create any odor or vibration impacts to the surrounding area.(Planning/SK)