



# The City of Othello

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## Type III Development Review Staff Report & Recommendation

### Project Name: AT&T Wireless Communication Tower – Conditional Use Permit

**Case Types:** Conditional Use Permit and SEPA review

**Location:** Pilgrim Lutheran Church, 640 E. Elm Street, described as Tax #155 Othello Tracts. Parcel #1529030680155. The specific site is a 30' x 30' area west of the existing parking lot and 100' east of the southwest corner of the property.

**Project Description:** Construct a 100'-tall wireless communication tower camouflaged as a church bell tower, with a 30' x 30' equipment area at the base.

**Applicant(s):** New Cingular Wireless PCS LLC (aka AT&T), Redmond, WA & Tualatin, OR

**Contact Person:** Jamison Cavallero, Velocitel  
503-636-2500  
[jcavallero@veloitel.com](mailto:jcavallero@veloitel.com)

**Property Owner(s):** Pilgrim Lutheran Church of Othello  
640 Elm Street  
Othello, WA 99344

**Zoning:** R-2 Residential

**Parcel Number:** 1529030680155

### **Recommendation:** Approve subject to conditions

By: Anne Henning, Community Development Director Date issued: July 17, 2019

## AGENCY REVIEW

Agency Notified	Response Date	Agency Notified	Response Date
Building Dept	None	US Bureau of Reclamation	None
Public Works	None	East Columbia Basin Irrigation District	None
Police	None	Port of Othello	None
Engineering	None	Adams County Development Council	None
Parks		WA Dept of Archaeology & Historic Preservation	
Fire Dept	None	WA Dept of Ecology	None
County Assessor	None	WA Dept of Fish & Wildlife	None
Health Dept	None	WA Dept of Transportation	None
Avista Energy	None	US Fish & Wildlife	None
Big Bend Electrical Co-op	None	Colville Confederated Tribes	None
Northland Cable	None	Nez Perce Tribe	None
Cascade Natural Gas	6-24-19 7-10-19	Wanapum Tribe	None
Century Link Telephone	None	Yakama Nation	None

**Applicable Codes:** OMC 2.16 (Hearing Examiner); 13.04 (SEPA); 14.04 (Building Codes); 16.68 (Personal Wireless Telecommunications Facilities); 17.05.050 (Conditional Uses); 17.09 (Definitions); 17.21 (R-2 Residential District); Title 19 (Development Code)

### Public Notice:

- Notice of application and public hearing was emailed to agencies and departments, posted at City Hall, and posted on the City website June 24, 2019.
- The land use notice sign was posted on the subject property by the applicant on June 25, 2019.
- The notice of application and public hearing was published in the Sun Tribune on July 3, 2019.
- Notice of the public hearing was posted on the City website July 10, 2019, at City Hall on July 11, 2019, and mailed to property owners within 350 feet of the site on July 15, 2019.

## PUBLIC COMMENT

The following comments were submitted in response to public notice:

None as of the date of this report

## PROJECT OVERVIEW

The church property is 2.79 acres south of Elm Street and west of 7<sup>th</sup> Avenue. The property is zoned R-2 Residential and contains a church, parking lot, and parsonage. No topographic information is available. No environmentally sensitive areas have been identified on or adjacent to the site. The property is within an existing developed area.

The project is to construct a 100' wireless communication tower and associated ground-level equipment. The tower will include features that make it appear to be a bell tower for the church.

The zoning, Comprehensive Plan designation, and uses for the subject and surrounding properties are noted in the following table:

Compass	Zoning	Comprehensive Plan	Current Land Use
Site	R-2 Residential	R-2 Residential	Church, parking lot, parsonage
North	R-2 Residential	R-2 Residential	Sacred Heart Catholic Church
East	R-2 Residential	R-2 Residential	Funeral home & parking lot
South	R-2 Residential	R-2 Residential	Single family residences
West	R-2 Residential	R-2 Residential	Single family residences

#### **ENVIRONMENTAL REVIEW**

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], the City of Othello must determine if there are possible significant adverse environmental impacts associated with this proposal. On July 10, 2019, the City issued a **DNS – Determination of Non-Significance**. No adverse environmental impacts were anticipated that would not be addressed through other regulations, so no mitigating conditions through SEPA were deemed necessary.

#### **CONDITIONAL USE PERMIT REVIEW**

After the SEPA review, staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts could be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period.

#### **Major Issues**

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposal not discussed below comply with the applicable code requirements.

#### **Conditional Use Permit Codes, Laws, and Circumstances (Land Use):**

**Finding 1** – Conditional Use Permit Required – OMC 16.68.070(4) requires a conditional use permit for all personal wireless facilities located in a residential zone. In addition, OMC 16.68.110 requires a conditional use permit for towers taller than 60'.

**Finding 2** – Required Findings – OMC 17.05.050 contains the criteria for reviewing a conditional use permit request. Conditional uses shall only be permitted after a public

hearing before the hearing examiner finding that: (a) The use furthers the intent of the zone and conforms to the general plan; (b) The use will not create undesirable traffic congestion or parking problems; (c) The use will not be detrimental to surrounding properties or their uses because of appearances, noise, use, or other undesirable features; (d) The use will meet all standards and regulations for the zone in which it is to be located; and (e) The use will not create undesirable environmental problems.

**Finding 3 – Conditions** – OMC 17.05.050(1) allows the hearing examiner to make special requirements as part of the decision on the CUP if necessary to more closely fulfill the intent of the zone.

**Finding 4 – Decision** – OMC 17.05.050(4) requires the hearing examiner to stipulate whether the CUP is issued to a person or whether it runs with the land. “Person” includes individual, corporation, company, firm, association, partnership, joint stock company, a state, and all political subdivisions of a state or any agency or any instrumentality thereof having an ownership interest in the land as an owner, renter, or lessee.

**Finding 5 – Definition** – OMC 17.09.210 defines Conditional Use as a use permitted in one or more classifications as defined in this title but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone, and to assure that such use shall not be inimical to the public interest.

**Finding 6 – Conditional Use Permit Process** – OMC 16.68.070(4) requires a conditional use permit for all personal wireless facilities located in a residential zone. OMC 19.03.050 specifies that the Hearing Examiner shall review and make decisions on various applications, including conditional user permits. Per OMC 19.09.050, a conditional use permit requires a Type III quasi-judicial review with a public hearing and public notice. The hearing body may approve, approve with conditions, or deny the application.

### **Zoning and Comprehensive Plan Codes, Laws, and Circumstances (Land Use):**

**Finding 7 – R-2 Zone** – OMC 17.21, R-2 Residential District, allows uses allowed in the R-1 District. OMC 17.17.010(3) allows public and private schools, churches, and municipal buildings or structures after a public hearing by the Planning Commission and concurrence by the City Council. The Pilgrim Lutheran Church is an established, existing use in this location.

**Finding 8 – Current and Planned Uses** – The church and surrounding area are established uses that are not likely to change.

**Finding 9 – Comprehensive Plan** – The Comprehensive Plan does not address personal wireless communication facilities.

## **Personal Wireless Telecommunication Facilities Codes, Laws, and Circumstances (Land Use):**

**Finding 10** – Purpose of Personal Wireless Telecommunications Facilities Regulations – OMC 16.68 was adopted to protect the public health, safety, and welfare, to protect property values and minimize visual impact while furthering the development of enhanced telecommunications in the city (OMC 16.68.010). The chapter is warranted and necessary: (1) To manage the location of towers and antennas in the city; (2) To protect residential areas and land uses from potential adverse impacts of towers; (3) To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques; (4) To accommodate an increased need for towers to serve the wireless communications needs of city residents; (5) To promote and encourage co-location on existing and new towers as an option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future; (6) To consider the public health and safety of towers to the extent permitted by the Telecommunications Act of 1996; and (7) To avoid potential damage to adjacent properties through sound engineering practices and the proper siting of antenna support structures. (OMC 16.68.040)

**Finding 11** – Goals – The goals OMC 16.68 are to: (1) enhance the ability of personal wireless service providers to provide such services throughout the city quickly, effectively, and efficiently; (2) encourage personal wireless service providers to locate towers and antennas in nonresidential areas; (3) encourage personal wireless service providers to co-locate on new and existing tower sites; (4) encourage personal wireless service providers to locate towers and antennas, to the extent possible, in areas where the adverse impact on city residents is minimal; and (5) encourage personal wireless service providers to configure towers and antennas in a way that minimizes any significant adverse visual impact. (OMC 16.68.040)

**Finding 12** – Site Selection Criteria – OMC 16.68.060 requires engineering evidence that the antenna must be located at the site to satisfy its function in the applicant's local grid system and that the height requested is the minimum height necessary to fulfill the site's function within the grid system. The applicant must be or have agreements with an FCC-licensed telecommunications provider. Location and design of facilities must consider the impact, including visual impact, of the facility on the surrounding neighborhood and zone. Towers must be significantly screened with trees unless that would significantly degrade the signal.

**Finding 13** – Priorities – OMC 16.68.070 sets the priorities for new locations, from existing tall structures as first priority, then industrial zone, commercial zone, other non-residential property, and finally churches, schools, and other structures that exceed 30' in height.

(1) Before locating in a residential zone, an applicant must show diligent effort to locate the facility on a government facility, private institutional structure, or other appropriate structure in a nonresidential zone, and that no appropriate location is available, due to valid considerations such as physical constraints and economic or technological feasibility.

- (2) Applicants must demonstrate that they contacted the owners of structures more than 30' tall within ¼ mile of the proposed site, asked permission to install the antenna there, and were denied for reasons other than economic feasibility.

**Finding 14 – Submittal Requirements –** OMC 16.68.070(3) lists application submittal requirements, including a map of the service area, its relationship to other cell sites in the applicant's network, and evaluation of existing buildings taller than 30' within ¼ miles of the proposed location.

**Finding 15 – Co-location –** OMC 16.68.090 encourages co-location, allows the city to deny an application for a new facility if the applicant has not shown diligent effort to use an existing structure or tower, and requires structures to be designed to accommodate antennas for more than one user unless infeasible. However, co-location shall not take precedence over constructing shorter towers with screening.

**Finding 16 – Separation –** OMC 16.68.100(b)(13) requires that towers must be at least 500' apart.

**Finding 17 – Height –** OMC 16.68.100(b)(10) requires the applicant to demonstrate that the tower is the minimum height while still functioning satisfactorily.

**Finding 18 – Safety –** OMC 16.68.100(b)(7 & 8) require building codes and Electronic Industries Association standards to be met. OMC 16.68.100(b)(11) requires the applicant to demonstrate safety from structure failure, falling ice, or other debris or interference, and to install anti-climbing devices. OMC 16.68.120 requires an annual safety inspection by the facility operator.

**Finding 19 – Setback –** Per OMC 16.68.100(b)(1), in a residential zone, a tower must be set back from property lines at least the height of the tower.

**Finding 20 – Appearance, Fencing, and Screening –** OMC 16.68.100 requires facilities to be architecturally compatible with the surrounding buildings and uses and screened or otherwise integrated to blend in with the existing characteristics of the site. Towers are to have a color generally matching the surroundings or background to minimize visibility. Ground level equipment, buildings, and the tower base are to be screened from public view. Buildings are limited to 300 square feet and 12' maximum height. Ground level buildings are to be screened from view with plantings, fencing, or other appropriate means. Equipment buildings in residential zones are to comply with setbacks and conform in appearance with nearby residential structures. All federal requirements must be met. A 6' wall or wooden fence is required with an 8' landscape strip. OMC 16.68.130 specifies required landscaping, including 6' evergreen trees no more than 6' apart and a continuous hedge at least 36" at planting that will grow to at least 48" within 18 months. OMC 16.68.020 defines camouflaged as disguised, hidden, or integrated into an existing structure that is not a monopole or tower, or placed within an existing or proposed structure or new structure, tower, or mount within trees so as to be significantly screened from view.

**Finding 21 – Parking –** OMC 16.68.100(b)(12) requires adequate parking for maintenance workers for a fully-automated site.

**Finding 22 – OMC Compliance –** The proponent documented compliance with each section of the OMC in Attachment 2, Statement of Code Compliance.

**Conclusions (Land Use):** Staff concludes that the proposed project can meet applicable OMCs and makes adequate provisions for public health, safety, and welfare as follows:

**Conclusion 1 – CUP Required Findings –** The cell facility is not inconsistent with the intent of the zone or with the general plan. Cell phones have become part of everyday life and people expect cell service to be available throughout the city, including inside buildings; (b) The cell facility will not create undesirable traffic congestion or parking problems and will likely generate only one monthly vehicle trip; (c) The cell facility will not be detrimental to surrounding properties or their uses because of appearances, noise, use, or other undesirable features. By camouflaging as a bell tower for the church, this tower will appear to be part of the existing church development. The ground level structures will be screened with fencing and landscaping. The only noise will be created by the generator, which is scheduled to run 15 minutes per month plus during any power outages; (d) The cell facility will meet all standards and regulations for the zone in which it is to be located; and (e) The cell facility will not create undesirable environmental problems.

**Conclusion 2 – R-2 Zone –** The cell facility use is acceptable in this zone, as part of the allowed church development in a residential zone.

**Conclusion 3 – Goals and Purpose of Cell Regulations -** The proposed cell facility fits with the goals and purposes of OMC 16.68 of protecting the residential area and the public from adverse visual impacts of a tower by camouflaging as a church bell tower.

**Conclusion 4 – Priorities –** The proponent has followed the prioritization required by OMC 16.68.070 by looking at existing tall structures, industrial zones, commercial zones, non-residential property, government properties, and schools, before settling on the church site as the best to meet their needs.

**Conclusion 5 – Submittal Requirements –** The proponent has submitted all documents required by OMC 16.68.

**Conclusion 6 – Co-location –** The project complies for the co-location requirements. The proponent documented the search for an existing facility to co-locate on but was unable to find something suitable. The proposed facility is designed to allow future co-location.

**Conclusion 7 – Separation –** There are no other towers within the minimum distance of 500’.

**Conclusion 8 – Height –** The 100’ height is justified in order to accommodate the height of surrounding wireless sites, ground elevation, obstructions to the signal, the surrounding terrain, and to provide sufficient coverage and capacity so wireless devices

can be reliably used to make and receive phone calls and use data services in the presence of varying signals.

**Conclusion 9 – Safety – Compliance with building codes and EIA standards will be verified by requiring a building permit for the facility. The conditions related to support structure failure, falling ice or other debris or interference, and anti-climbing devices should be included as conditions of approval.**

**Conclusion 10 – Setback – The minimum setback equal to the height of the tower is met by the location of 100' from the west and south property lines, and greater distances to the north and east property lines.**

**Conclusion 11 – Appearance – The proposed tower is architecturally compatible with the church and blends in with the existing characteristics of the site by appearing as a church bell tower. The equipment shelter is less than the maximum of 300 square feet and 12' height. The equipment area is screened with an 8' cedar fence surrounded by a landscape buffer of evergreen trees and Polystichum Munitum (Western Sword Fern). It is unknown whether the sword fern will grow into the continuous hedge in the site conditions, however the evergreen trees are planted less than 6' apart and may serve to create a continuous landscape buffer.**

**Conclusion 12 – Parking – The site has ample parking to accommodate a monthly maintenance visit.**

### **Cascade Natural Gas:**

**Finding 1 – Cascade Natural Gas submitted a map and concerns that the cell tower would affect the natural gas facilities near the site. The map shows the natural gas facilities east and south of the church site. The cell facility is west of the church building and 100' north of the south property line.**

**Conclusion (Cascade Natural Gas):** The proposed telecommunications facility is unlikely to affect existing natural gas facilities due to the significant separation distance between the two uses; however, any existing utilities would need to be accommodated during construction.

### **RECOMMENDED CONDITIONS OF APPROVAL**

1. All conditions of OMC 16.68, Personal Wireless Telecommunications Facilities, must be met.
2. The conditional use permit shall run with the land.
3. Proponent shall replace the landscaping screening the enclosure area if it does not continue to meet the standards of OMC 16.68.

### **PROCESS AND APPEALS**

This report to the Hearings Examiner is a recommendation from the Community Development Department for the City of Othello, Washington.

The examiner may adopt, modify or reject this recommendation. The examiner will render a decision within 14 calendar days of closing the public hearing. The City will mail a copy of the

decision to the applicant and all parties of record within 7 days of receipt of the decision from the examiner.

The decision may be appealed to the superior court of Adams County by the applicant or any “Party of Record”. To qualify as a party of record, you must have submitted written comments or a written request to be identified as a Party of Record prior to the closing of the record.

An accurate mailing address for those submitting comments must be included or they will not qualify as a “Party of Record” and, therefore, will not have standing to appeal the decision. An appellant must submit an appeal to the superior court of Adams County within 30 calendar days after the written decision is mailed.

Refer to OMC 19.11 for the appeal process.

#### **ATTACHMENTS TO THIS STAFF REPORT**

	Document	Pages
Exhibit 1	Project Narrative	11
Exhibit 2	Statement of Code Compliance	31
Exhibit 3	RF Justification	20
Exhibit 4	AT&T FCC/MPE Letter	2
Exhibit 5	FCC Licenses Adams County	44
Exhibit 6	FAA TOWAIR Determination	2
Exhibit 7	Jurisdiction Correspondence	2
Exhibit 8	Alternative Site Correspondence	3
Exhibit 9	Photo Simulations	5
Exhibit 10	Zoning Drawings	12
Exhibit 11	Land use application, receipt, and cover letter	4
Exhibit 12	Public Notice documentation (Notice of Completeness; Notice of Application document that was provided to agencies and posted onsite, at City Hall, and on the City website; agency routing emails; onsite posting affidavit; newspaper notice and confirmation; screenshot of Land Use Notices page of website; public hearing notice that was mailed, list of names and addresses of owners within 350’ that the notice was mailed to, map of properties within 350’)	19
Exhibit 13	Environmental review documents (DNS issued 7-10-19; SEPA Environmental Checklist submitted 6-18-19; DNS agency routing email; letter to proponent about DNS)	17
Exhibit 14	Comments received (Cascade Natural Gas 6-24-19 & 7-10-19 emails)	3