

Parcel Number: R13334-012-0880

Comprehensive Plan Designation: Low Density Residential

Zoning Designation: R-1, Single-Family Residential

Application Presented for Action:
Conditional Use Permit (CUP-15-02), Review Process III

Legal Notices: Published: Notice of Application and Public Hearing, May 21, 2015

Mailed Notice of Application 300-foot radius May 1, 2015

Posted on subject property: Notice of Application, May 1, 2015

Hearing Date: June 15, 2015

Parties of Record

Carly Nations
Glotel, Inc. on behalf of Verizon Wireless
15375 SE 30th Place, Suite 160
Bellevue, WA 98007

Ray Lindenburg, Associate Planner
Development Services Department

Exhibits

- 1 Staff Report with attached Exhibits
 - 1-1 Conditional Use Application and Applicant Narrative
 - 1-2 Legal Description
 - 1-3 Email Correspondence between Staff and Applicant
- 2 Non-Ionizing Electromagnetic Radiation Report, prepared by Glotel, Dec 23, 2014
- 3 Noise Evaluation Report, prepared by Glotel, Inc. November 25, 2014
- 4 Artistic Engineering, Aerial/Site Photo Simulation, Glotel, Inc. [4 pages-Views]
- 5 Vicinity and Aerial Map
- 6 Zoning Map
- 7 Public Noticing Documents

II.

The Development Services Department of the City of Oak Harbor recommended approval of the requested Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Department are set forth in a Staff Report, Exhibit No.1, dated June 15, 2015, a copy of which is attached hereto and incorporated herein by this reference.

The Findings of Fact set forth by Staff in the Staff Report are supported by the record as a whole. The Applicant's representative, Carly Nations, indicated that there were no factual inaccuracies in the Staff Report and indicated no concerns with the recommended Conditions of Approval.

There was no public comment on this proposal either in writing or at the public hearing.

III.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I.

The Hearing Examiner concurs with Staff's review of the Conditional Use Criteria in the Staff Report and with Staff's Recommendation that the Conditional Use Permit Approval is consistent with the Conditional Use Criteria of OHMC 19.67. Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Conditional Use Permit should be granted, subject to conditions.

II.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

DECISION

The Hearing Examiner for the City of Oak Harbor hereby grants Conditional Use Permit Approval to Verizon Wireless for the installation of 12 new cellular phone antennas on an existing tower at the 114-foot level, and the installation of equipment cabinets in a 15-ft by 30-ft fenced enclosure near the base of the tower, addressed as 200 SW Roeder Drive, Oak Harbor, WA, parcel R13334-012-0880, subject to the following Conditions of Approval:

1. The project shall be in general conformance with the narrative and application materials, Exhibit 1-1 in the Hearing Examiner file, and abide by conditions and requirements set forth within the Staff Report, a copy of which is attached hereto.
2. The project shall be in conformance with all applicable sections of the Oak Harbor Municipal Code, including, but not limited to, Chapters 19.28.050, and 19.29.
3. The Applicant shall ensure that the site meets or exceeds all criteria and evaluations within the Non-Ionizing Electromagnetic Radiation Report [see Exhibit 2] and the Noise Evaluation Report [see Exhibit 3] in the Hearing Examiner file.
4. Limited expansions or modifications to the facility can be requested through a Type II administrative review process.
5. The Applicant shall apply for and receive any required building permits before commencement of construction activity.
6. The Conditional Use Permit shall not be transferable to a subsequent user unless specifically authorized by the Hearing Examiner who finds it appropriate and a permit authorizing the transferability is on record with the Island County Auditor.
7. The Conditional Use Permit must be acted on within one year of the date of granting. Otherwise the Conditional Use Permit shall expire and be null and void.
8. The Conditional Use Permit applies only to the property for which the application is made.

NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply

with them may be cause for enforcement action pursuant to OHMC 19.100. Complaints regarding a violation of the conditions of this permit should be filed with the City of Oak Harbor Development Services Department.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF

This decision of the Hearing Examiner for the City of Oak Harbor is final ten days after the issuance of this decision unless it is appealed to the Island County Superior Court within ten days of the issuance of this decision, pursuant to 30.70C R.C.W.

DATED this 22nd day of June 2015.



Michael Bobbink, Hearing Examiner

**VERIZON WIRELESS TELECOMMUNICATION FACILITY –
SW ROEDER DRIVE
Case No. CUP-15-02
Staff Report to Hearing Examiner**

APPLICATION:

The applicant proposes to add 12 panel antennas to an existing 294-foot tower located on property at 200 SW Roeder Drive. Also proposed as part of the application is a series of six outdoor cabinets housing equipment related to the antennae on a concrete pad within a proposed 15 by 30 foot fenced enclosure.

PRELIMINARY INFORMATION:

Applicant: Glotel, Inc. 15375 SE 30th Place, Suite 160, Bellevue, Washington 98007

Property Owner: Tele-Vue Systems, Inc., 1 Comcast Center, 32nd Floor, Philadelphia PA 19103

Address of proposal: 200 SW Roeder Drive., Oak Harbor, WA 98277

Parcel Number: R13334-012-0880

Comprehensive Plan Designation: Low Density Residential

Zoning Designation: R-1, Single Family Residential

Application Presented for Action:

Conditional Use Application (CUP-15-02) - Review Process III

Attachments:

- Exhibit 1 Conditional Use Application and Applicant Narrative
- Exhibit 2 Vicinity and Aerial Map
- Exhibit 3 Zoning Map
- Exhibit 4 Public Noticing Documents

BACKGROUND:

The site currently includes a 294-foot guywire-supported tower developed originally as a television antenna. Since the construction of the tower, several cellular phone antennae have been mounted to the structure and it continues to be a viable location for co-location for new wireless antenna. Several structures on the property house various support facilities.

This application is considered to be an expansion of an existing Conditional Use. The specific Conditional Use Permit for the tower structure (CUP #03-003) allows for certain

minor modifications, including the addition of small antennae, along with other maintenance and minor changes. However, this application includes more than just additional antennae – it also proposes equipment cabinets to be constructed in a separate ground enclosure. Based on that additional impact, staff has interpreted the Code to require a new Conditional Use Permit for this application.

The site is considered to be a “Monopole II” structure, and was approved as a Conditional Use as noted above. As such, Co-location of wireless facilities are permitted as noted in OHMC 19.29.060(5). The approval of this Conditional Use Permit will simply allow the applicant to construct equipment cabinets and a secure enclosure for such cabinets as shown in the attached application materials.

Conditional Use Permit Application

The subject parcel is currently zoned R-1, Single Family Residential. According to OHMC 19.29.060, “(3) Monopole II facilities are not permitted in residential (PRE, R-1, R-2, R-3 and R-4), residential office (RO), neighborhood commercial (C-1) or central business district (CBD) zones, except when expressly provided for in this chapter.” As noted above, the tower structure previously received Conditional Use approval in 2003.

19.29.070 Additional Permit Criteria for Monopole I and Monopole II

In addition to the permit criteria specified in Chapters 19.48 and 19.67 OHMC, the following specific criteria shall be met before a site plan review or conditional use permit can be granted:

(1) Antennas may not extend more than 15 feet above their supporting structure, monopole, building or other structure.

(2) Site location and development shall preserve the pre-existing character of the surrounding buildings and land uses and the zone district to the extent consistent with the function of the communications equipment. Wireless communications towers 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.

(3) Accessory equipment facilities used to house wireless communications equipment should be located within buildings or placed underground when possible. When they cannot be located in buildings, equipment shelters or cabinets shall be screened and landscaped in conformance with Chapter 19.46 OHMC.

(4) No equipment shall be operated so as to produce noise in levels above 45 dB as measured from the nearest property line on which the attached wireless communications facility is located.

(5) In any proceeding regarding the issuance of site plan review or a conditional use permit under the terms of this chapter, federal law prohibits consideration of environmental effects of radio frequency emissions to the extent that the proposed facilities comply with the Federal Communications Commission regulations concerning such emission.

(6) Towers, antennas or other objects that penetrate the 100:1 angle slope criteria established in Federal Aviation Regulation (FAR) Part 44 (Sections 77.13(a)(1) and

77.13(a)(2)(I), respectively) shall be reviewed for compatibility with airport operations. No tower, antenna or other object shall constitute a hazard to air navigation, interfere with the safe operation of aircraft or deny the existing operational capability of Ault Field. (Ord. 1555 § 12, 2009).

Following OHMC 18.20.250(2)(b), the review of applications for conditional uses are Review Process III actions. Such actions are subject to an open record public hearing before the Oak Harbor Hearing Examiner, followed by a final decision by the Examiner.

PROJECT DESCRIPTION

The proposed project consists of the installation of 12 new cellular phone antennas on an existing tower at the 114-foot level. Equipment cabinets are proposed to be installed in a 15 by 30 foot fenced enclosure near the base of the tower.

SITE GEOGRAPHY

The subject property is an approximately 2.14 acre parcel located southwest of the intersection of SW Loerland Drive and SW Heller Street. The parcel slopes gradually from east to west and is one of the highest points in the immediate vicinity. Currently, the tower, several telecommunication dishes and associated equipment cabinets and buildings occupy the site.

	Existing Land Use	Zoning
North:	Residential	R-1, Single Family Residential
South:	Residential	R-1, Single Family Residential
East:	Residential	R-1, Single Family Residential
West:	Residential	R-1, Single Family Residential

SEPA

A Determination of Nonsignificance was issued on May 21, 2015.

LEGAL NOTICE:

A Notice of Application and Notice of Public Hearing was advertised on May 1, 2015, both in the Whidbey News Times. Notice to neighboring property owners within a 300-foot radius of the property were mailed on May 1, 2015 and a notice was posted on the subject property on May 1, 2015.

The public hearing to consider CUP-15-02 is scheduled for June 8, 2015 at 10:00 a.m.

PUBLIC COMMENTS:

The City has received no public comments as of the date of this staff report.

CONDITIONAL USE REVIEW

The Oak Harbor Municipal Code 19.67 Conditional Uses, states that a conditional use permit shall be granted if certain criteria are met. The following is an analysis of the conditional use criteria:

1. All special conditions for the particular use are met.

As noted above, special criteria are set forth for wireless sites that require a conditional use. Those criteria will be set as conditions of approval for the final project permit.

2. It does not have a significant, adverse environmental impact resulting in excessive noise, light and glare or soil erosion on adjacent property.

Limited impacts are expected from this proposed development. Noise may be emitted from a generator proposed for the site. This noise is regulated by OHMC 19.29.070(4) which places a limit of 45 dB and OHMC 6.56.

3. It is provided with adequate parking.

Due to the nature of the project, permanent parking is not required, but there may be times that space is needed to accommodate maintenance or other related vehicles. The construction of the new equipment cabinets and enclosure should not pose an adverse effect on existing parking availability.

4. It is served with adequate public streets, public utilities and facilities.

Public streets, utilities and facilities are available at the property. No undue impact is anticipated.

5. It otherwise meets the purpose of the district in which it is to be placed.

The existing pole is approved under a Conditional Use and this expansion does not contradict the purpose of the Zone District or the CUP.

6. It meets the goals and policies of the Oak Harbor Comprehensive Plan.

Utilities Element – Goal 4: Minimize aesthetic and environmental degradation from utility operation, installation, replacement, repair and maintenance. The location of the equipment cabinets behind a natural barrier of trees and landscaping and the co-location of antennae on an existing tower will minimize negative visual impacts.

Land Use – Goal 14: To strengthen and enlarge the commercial economic base of the community by promoting the development of facilities that provided a competitive and stimulating business environment. This proposed cellular facility will help strengthen cellular service in the community, assisting commercial businesses and residents alike in communication with local and out-of-area contacts.

RECOMMENDED ACTION:

Staff recommends that the Hearing Examiner conduct the public hearing and approve CUP-14-02 subject to the following conditions:

1. The project shall be in general conformance with the narrative and application materials submitted by the applicant as attached in Exhibit 1 and abide by conditions and requirements set forth within this report.
2. The project shall be in conformance with all applicable sections of the Oak Harbor Municipal Code, including but not limited to, Chapters 19.28.050 and 19.29.
3. That the site meets or exceeds all criteria and evaluations within the attached Noise Evaluation Report and Non-Ionizing Electromagnetic Radiation Report.
4. Limited expansions or modifications to the facility can be requested through a Type II administrative review process.
5. Applicant shall apply for and receive any required building permits before commencement of construction activity.
6. The conditional use shall not be transferable to a subsequent user unless specifically authorized by the hearing examiner who finds it appropriate and a permit authorizing the transferability is on record with the Island County auditor.
7. The conditional use permit must be acted on within one year of the date of granting. Otherwise the conditional use permit shall expire and be null and void.
8. The conditional use permit applies only to the property for which the application is made.