

Planning Commission

STEPHEN K. YAMASHIRO
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

March 25, 1993

Mr. Larry Hartshorn
GTE Hawaiian Tel Company
1177 Bishop Street
Honolulu, HI 96814

Dear Mr. Hartshorn:

✓ Special Management Area Use Permit Application (SMA 92-9)
Shoreline Setback Variance Application (SSV 92-3)
Applicant: GTE Hawaiian Tel Company
Request: Interisland Fiber Optic Cable and
Related Improvements
Tax Map Key 6-2-2:8 & Portion of 6 & 8

The Planning Commission at its duly held public hearing on March 18, 1993, voted to approve the above applications, Special Management Area Use (SMA) Permit No. 339 and Shoreline Setback Variance Permit No. 644, to allow the installation of an interisland submarine fiber optic cable and related improvements within the 40-foot shoreline setback and mauka up to the Akoni Pule Highway. The project site is Spencer Beach Park, Kawaihae 2nd, South Kohala, Hawaii.

Approval of both requests are based on the following:

SMA USE PERMIT APPLICATION

The purpose of Chapter 205A, Hawaii Revised Statutes, and Rule No. 9, Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect, and where, possible, to restore the natural resources of the coastal zone areas.

OBJECTIVES AND POLICIES

The review of the application must address Planning Commission's Rule No. 9, Section 9-6 (Objectives and Policies of Chapter 205A, HRS).

MAR 25 1993

Mr. Larry Hartshorn
March 25, 1993
Page 2

GUIDELINES

The Planning Director and the Planning Commission must review the SMA application in accord with the Rule No. 9, Section 9-7 (Special Management Area Guidelines).

APPROVAL PROCEDURES

In accord with Rule No. 9, Section 9-11 (C) (Special Management Area Use Permit Procedures) (Grounds for Approval of Special Management Area Use Permits), the Planning Commission may permit the proposed development only upon finding that:

1. The development will not have any significant adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest;
2. The development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines as contained herein; and
3. The development is consistent with the General Plan, Zoning Code and other applicable ordinances.

SPECIAL MANAGEMENT AREA IMPACT ANALYSIS

CLIMATE

The proposed project is not expected to impact the local climate of the project area and vicinity.

TOPOGRAPHY, GEOLOGY AND SOILS

With respect to the segment of the cable to be installed subsurface, no long term surface impacts are anticipated since the project involves temporary excavation and filling with the same material. The excavated portions will be returned to its present status by reusing soil excavated for fill.

HYDROLOGY

No adverse impacts are anticipated on surface waters or groundwater since the project will not alter existing drainage patterns or have any long term water requirements. The project proposes the installation of a cable line within the shoreline area and does not affect any potable groundwater source. It is anticipated that nearshore waters may become clouded during the

trench excavation and backfilling operations. Silt or other types of filter screens to lessen turbidity effects may be erected to minimize this impact. A condition of approval shall be included to ensure that this action is provided for during the construction even though the SMA and SSV action permits work up to the mauka portion of the Certified Shoreline Survey. Water collected during the dewatering process will be discharged on the beach adjacent to the work area.

TERRESTRIAL FLORA/FAUNA

The project area is not known to contain any rare plants or animals, therefore adverse impacts are not anticipated. As part of the proposed development, the exposed areas within the cable segment will be replanted.

MARINE FLORA AND FAUNA

The potential for impact to the shallow marine community will probably be greatest with the construction phase of this proposed project and not from the land based construction activity and conditions of approval shall be required to ensure that the construction activity be confined to the area above the Certified Shoreline Survey Line. This area will be required to be visibly staked to ensure that no construction activity goes beyond the certified shoreline.

SCENIC AND VISUAL RESOURCES

No adverse impacts are anticipated on the beach park since the proposed cable will be located below the surface up to the beach park. From there, the cable will be routed to an existing on-site telephone pole line for further routing to the central office on Queen Kaahumanu Highway. For seven to ten days, there will be temporary impact on the coastal views from construction activities. During the construction period, the beach portion of the project site will have construction equipment and a mound of sand from the excavated trench. The beach will be returned to its existing condition at the conclusion of the cable installation. Excess material not utilized for fill will be removed. Therefore, after the cable is installed, no long term impact is anticipated.

HISTORICAL/ARCHAEOLOGICAL RESOURCES

No impacts are anticipated based on heavy disturbance of the beach park site which would have already destroyed any remains of significance. However, given that no subsurface testing has been undertaken along the new alignment segment, from above the beach

Mr. Larry Hartshorn
March 25, 1993
Page 4

landing towards Spencer County Road, it is recommended that a staked alignment is identified, that subsurface testing be undertaken to accurately assess sub-surface conditions. Subsurface testing will be undertaken in coordination with DLNR, Historic Preservation Division. Should any significant cultural remains be discovered, work in the immediate area will cease and the appropriate agencies will be contacted.

BEACH EROSION AND SAND TRANSPORT

The proposed project is not expected to negatively impact beach processes. The proposed cable route will seek to utilize the sand channel which passes through the shallow fringing reef and therefore will not impair the ability of the reef ability from continuing to protect Ohaiula Beach. At the landing site, once all construction activities are completed, the work crew will make every reasonable effort to return the ground to existing preconstruction contours through use of excavated materials for backfill.

NOISE FROM CONSTRUCTION ACTIVITY

Noise generated from machinery can be mitigated to some degree by requiring contractors to adhere to State and County noise regulations. This includes ensuring that machinery are properly muffled. Some work at night may be required. Night activities include cable splicing, cable pulling, operation of machinery, etc. Boats that are used during the construction period will also be a source of noise. The impact of noise from these vessels cannot be mitigated. The noise impact will be temporary in nature and will not continue beyond the construction and cable laying period.

AIR QUALITY

Dust is anticipated to be generated during construction. However, the amounts will be minimal since the excavation will occur in sand and porous soil. In addition, the State Department of Health air quality standards require watering of excavation activities if dust generated is a problem. There are no residential uses in the area and any inconvenience to park users will be mitigated by watering the construction area. Water can be imported and sprayed by watering trucks.

WATER QUALITY - NEARSHORE WATERS

No adverse impacts will occur on surface or ground water since the project will not significantly alter existing drainage patterns or have any long term water requirements. The project proposes the installation of a cable line within the shoreline area and does not affect any potable groundwater source.

Mr. Larry Hartshorn
March 25, 1993
Page 5

SOCIO-ECONOMIC ENVIRONMENT

POPULATION

No adverse impacts on existing residents or working population of Kawaihae are expected.

SURROUNDING LAND USE

No major short or long term impacts are anticipated from the development of the proposed project. The cable route will be on vacant land when subsurface and be carried overhead within street rights-of-way and will not adversely impact surrounding uses.

PUBLIC FACILITIES AND SERVICES

TRANSPORTATION FACILITIES

No impacts on transportation facilities are anticipated.

RECREATIONAL FACILITIES

Construction will take approximately 7 to 10 days during which time the immediate areas surrounding the cable landing site will have to be cordoned off to the public for safety reasons. The major portion of the park will not have to be closed and will continue to be accessible to the public. Upon completion on the installation, the park grounds will be restored to its original condition. No impacts on the cable are expected from park users since the cable will be buried in sufficient depth and encased in concrete.

SECTION 9-7 SPECIAL MANAGEMENT AREA GUIDELINES ANALYSIS

The proposed project will not dredge, fill or alter the beach processes with the installation of this underground utility line. The applicant anticipates the removal of approximately 178 cubic yards of sand and rubble and storing it adjacent to the trench for back filling of the trench and restoring the lawn and beach park area back to its original conditions. A condition of approval shall be included to ensure that the restoration process is conducted.

The proposed project will not reduce the size of the Spencer Beach Park nor render any portion of the park unusable for the public recreation use, as the proposed project will be an underground facility which will not interfere with the above ground use of the Park.

The proposed project will neither reduce or impose restrictions upon public access to the use of the Beach park with the exception of

the construction phase of the project. The construction time table for the installation of the project within the Beach Park area will be done in approximately 2 days. This limited time should not severely impact the use of the beach park. The proposed construction activity will be limited by a condition of approval to be done during a week day and that sufficient notice will be made to the public with the publishing of a public notice in the two newspapers here in the County of Hawaii, so that people can be made aware as to the dates of this construction activity.

Because the overall project will be done underground, the development will not interfere with, detract or destroy any view planes from the State Highway or from other scenic areas identified in the General Plan.

No adverse impacts are anticipated on surface or groundwater since the project will not significantly alter existing drainage patterns or have any long term water requirements. The project of the installation of the cable line within the shoreline area will not affect any potable groundwater source. The water quality of the ocean water may be temporarily affected, however, a condition of approval will be the requirement of a netting or filtering system within the ocean where the construction will be occurring so that the mixture of any dirt or rubble beneath the sand which will be disturbed with the ocean water can be contained and the impact to the ocean waters during the construction phase can be minimized and mitigated for the short anticipated construction period.

GENERAL PLAN AND CONSISTENCY REQUIREMENTS

1. The proposed development improvements will implement the General Plan's "PUBLIC UTILITIES" Element and "TELEPHONE SUBSECTION"; the NATURAL RESOURCES/SHORELINE Element goals, policies and standards.

The objective of the proposed project is to establish the Big Island landing segment of the proposed interisland fiber optic cable system. When completed, the cable system will provide existing and for future capacity to accommodate interisland telecommunications traffic, increase system integrity and ensure additional path diversity.

CONCLUSION

Based on the above facts and analysis, the Planning Commission has determined that:

1. The development will not have any significant adverse environmental or ecological effect except as such adverse

effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest;

2. The development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and the Special Management Area guidelines as contained herein; and
3. The development is consistent with the General Plan, Zoning Code and other applicable ordinances.

SHORELINE SETBACK VARIANCE APPLICATION

The purpose of the Planning Commission's Shoreline Setback Rules and Regulations is to regulate the fact that the growing population and expanding development have brought about numerous cases of encroachment of structures upon the shoreline. Many of these structures have disturbed the natural shoreline processes and caused erosion of the shoreline. Concrete masses along the shoreline are contrary to the policy for the preservation of the natural shoreline and the open space. Unrestricted removal of sand, coral, rocks, etc., for commercial uses can only deteriorate the shoreline and remove it from public use and enjoyment. Moreover, the Hawaiian Islands are subject to tsunamis and high waves which endanger residential dwellings and other structures which are built too close to the shoreline. For these reasons, it is in the public interest to establish shoreline setbacks and to regulate the use and activities within the shoreline setback.

APPROVAL CRITERIA DETERMINATION

The Planning Commission has determined that the Shoreline Setback Variance shall be processed in accordance with Rule 8, Section 8-14 (b) (2) (Criteria for Approval of a Variance) (Public Interest Standard) which states that:

"A variance may be granted for an activity or structure which is undertaken by a public agency or by a public utility regulated under Chapter 269, Hawaii Revised Statutes, or a private facility or improvement which is undertaken by a private entity and is clearly in the public interest; provided that the proposal is the practicable alternative which best conforms to the purpose of this rule."

Rule 8, Section 8-3 (h) (Definitions) states:

"Practicable alternative" means an alternative to the proposed project which is available and capable of being done, taking into consideration existing technology and logistics, and which

Mr. Larry Hartshorn
March 25, 1993
Page 8

would accomplish the basic purposes of the project while avoiding or having less adverse impact on the shoreline area.

SHORELINE SETBACK VARIANCE PRACTICAL ALTERNATIVE DETERMINATION

Based on the findings, facts and analysis of the application, the Planning Commission approves the subject applications as the subject project is being undertaken by a public utility regulated under Chapter 269, Hawaii Revised Statutes and is clearly in the public interest and that the proposal is the practicable alternative which best conforms to the purpose of this rule and has appropriate placed conditions on the recommendation of approval in accord with the requirements of Rule No. 8, Section 8-14 (c).

The Planning Commission approves both the Special Management Area Use Permit and the Shoreline Setback Variance subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Plan Approval for the proposed project shall be secured from the Planning Department within five (5) years from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five (45) days prior to the date by which plan approval must be secured.
3. The plans for Final Plan Approval review shall include the following:
 - a. A site plan drawn to an appropriate engineering scale showing the area of the proposed construction;
 - b. The method of securing the construction area from the public during the work at the Beach park; and the location of proposed fencing around the perimeter of the construction area to ensure for the safety of the public, including the types of signs and other means necessary to conduct the construction activity without interfering with the normal recreational or beach use of the park.
 - c. Mitigation measures to be undertaken to minimize dust and debris control as well as a silt screening plan for control of impact to the ocean waters should it be necessary.
 - d. The staking of the shoreline as certified to clearly to denote no activity or construction beyond this line.

- e. A restoration plan to bring altered portions of the beach park as best can to its original condition. The restoration plan shall show that should the excavated sand becomes mixed with the underground rubble, it be either cleaned or replaced with new sand material. Upon completion of the restoration activity, the Planning Department shall be notified to ensure compliance with the restoration plan. A written approval of the restoration plan confirming satisfactory completion must be secured from the Planning Director.
4. The construction activity of the proposed project within the Beach Park shall be conducted during week days and between the hours of 7:00 A.M. and 3:00 P.M. and if need be during evening hours for construction activity which do not involve the use of heavy machinery. The applicant shall be responsible for publishing at least two public notices in the two newspapers in the County of Hawaii as to the date and times when construction will begin and end and shall post such notice at Spencer Park.
5. The County Planning Department and the Department of Parks and Recreation shall be notified in writing upon completion of all staking and methods of securing the construction area to allow for an on-site inspection prior to commencement of construction. The construction activity shall commence only after clearance has been secured from the Planning Director.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate shall cease and the Planning Department and State of Hawaii Department of Land and Natural Resources, Historic Preservation Office shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department and the State Department of Land and Natural Resources, Historic Preservation Office, when it finds that sufficient mitigative measures have been taken.
7. The applicant shall comply with all other laws, rules, regulations and requirements including those of the Department of Public Works, relating to Chapters 10 and 27 of the Hawaii County Code relating to Erosion and Sedimentation Control and Flood Control, the Department of Land and Natural Resources, the State Department of Health, the Office of State Planning and the U.S. Army Corp. of Engineers and any other applicable agencies.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the

Mr. Larry Hartshorn
March 25, 1993
Page 10

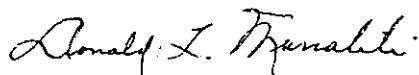
status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please feel free to contact Rodney Nakano of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

RKN:smn

xc: Mr. Brian Takeda
Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
Department of Parks and Recreation
County Real Property Tax Division
West Hawaii Office
Office of State Planning, CZM Program w/background
Department of Land and Natural Resources
Plan Approval Section