

County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

SEP 20 2006

Ms. Danette Mettler
Martin Pacific Property Services
76-6357 Kololia Street
Kailua-Kona, HI 96740

Dear Ms. Mettler:

Amendment to Special Management Area (SMA) Use Permit No. 434
Amendment to Special Permit No. 1214
Applicant: Cellco Partnership dba Verizon Wireless
Amendment Request: Expansion of Existing Telecommunication Site
Tax Map Key: 3-6-4:Portion of 7

The Planning Commission at its duly held public hearing on September 7, 2006, voted to approve the above-referenced request to allow (1) co-location of eight 8-foot panel antennas on the existing 80-foot telecommunication pole; (2) construction of a 312± square foot equipment shelter and security fencing; and (3) increase the permit area from 600 square feet to 1,475 square feet. The area involved is located at the north end of Laupahoehoe Gulch and along the makai side of State Highway 19, Waipunalei, North Hilo, Hawaii.

Approval of the requests are based on the following:

Special Management Area Use Permit No. 434 and Special Permit No. 1214 were originally approved by the Planning Commission on July 18, 2003, to allow the construction of an 80-foot telecommunication monopole and related ground facilities on a 600-square foot area for Nextel Partners, Inc.

Condition 3 of both permits allowed co-location of additional carriers on the existing tower, but Condition 5 of both permits required that the antennas be the type of antennas illustrated within the original application, which were omni directional. It also stated that there shall be no dish-type antennas. Additionally, Condition 6 of both permits allowed co-location or expansion of the tower within the parameters of the tower height

SEP 20 2006
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and envelope upon securing Final Plan Approval. Condition 6 also stated that during the Plan Approval process, the Planning Director shall determine whether the request for co-location shall have a significant visual impact and if such a determination is made, the Planning Director shall require review by the Planning Commission.

In response to a Special Management Area Use Permit Assessment application submitted by the applicant for the proposed amendment, the Planning Director determined that the increased project envelope and the installation of panel antennas, which would have a substantially greater visual impact than the omni or whip antennas, would require amendments to SMA Use Permit No. 434 and Special Permit 1214 before the Planning Commission.

The applicant, Cellco Partnership dba Verizon Wireless, with authorization from the landowner and Nextel Partners, Inc, is requesting an amendment to Special Management Area Use Permit No. 434 and Special Permit No. 1214 to allow the expansion of the existing telecommunication facility by adding eight 8-foot panel antennas on the existing approved 80-foot tall telecommunication pole, constructing a 312± equipment shelter with an internal generator and security fencing and increasing the permit area from 600 square feet to 1,475 square feet. The applicant is seeking to provide better wireless coverage in the Laupahoehoe area and improve the Big Island's network. The site was selected to help fill a coverage hole between Ninole and Ookala.

Granting of the amendment request would not be contrary to the original reasons for the granting of the permits. Approval of this amendment request would not be contrary to the original reasons for granting the original permits. The initial criteria for the granting of the original request has not changed since the approval of Special Management Area Use Permit No. 434 and Special Permit No. 1214. The 80-foot monopole and related improvements are constructed and in operation. The amendment request to increase the permit area from a 600 square foot portion to a 1,475 square foot portion of the 21.03 acre property will not displace a significant portion of the site for agricultural uses, diminish the agricultural potential of the area, or adversely affect the agricultural potential of the property and the surrounding area.

In the original application, consideration was given to allow for co-location on the approved tower to minimize the need to construct additional telecommunication towers in this area. There was a concern regarding visual impacts of the type of antennas that would be used for co-location. Dish-type antennas were prohibited and similar omni or whip type antennas that were originally used were encouraged. According to the applicant, they are unable to use omni directional antennas lower on the tower because it will drastically distort the radio frequency pattern. The omni directional antennas will create ripples and nulls with a dramatic loss in gain. The panel antennas have a circular pattern that will have greater gain and increase the coverage area by 60%.

After reviewing the proposed amendment request, the addition of the panel antennas at the 70-foot height of the 80-foot tower is not anticipated to have a substantial significant visual impact to surrounding properties or the highway. There are only two areas that the tower is visible from the highway. The tower is visible traveling towards Honokaa on Hawaii Belt Road just before entering Laupahoehoe Gulch and it is visible traveling on the Hilo side of Laupahoehoe Gulch. At these locations, the visual impact of the tower is greatly minimized because of the far distance. Lastly, the tower cannot be seen along the remainder of the gulch as well as traveling towards Hilo on the north side of the gulch because of the large Ironwood trees that are planted on the perimeter of the property and along the sides of the gulch.

Based on the above, the amendment request to allow the expansion of the existing telecommunication facility by adding eight 8-foot panel antennas on the existing approved 80-foot tall telecommunication pole, constructing a 312± equipment shelter with an internal generator and security fencing and increasing the permit area from 600 square feet to 1,475 square feet within the Special Management Area and the State Land Use Agricultural district will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the Special Management Area, and would promote the effectiveness and objectives of the State Land Use Law.

Granting of the amendment request would not be contrary to the General Plan or Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area as Important Agricultural Lands. The State Land Use Designation is Agricultural. The County zoning for the property is Agricultural 20-acre. The Zoning Code allows for telecommunication antennas in the Agricultural district with the approval of a Special Permit. The proposed request is also located within the Special Management Area and requires a Special Management Area Use Permit. Special Management Area Use Permit No. 434 and Special Permit No. 1214 were approved by the Planning Commission to allow the construction of an 80-foot telecommunication monopole and related ground facilities on a 600-square foot area of the subject property. The request is not contrary with the existing General Plan Designation for the subject property or the Zoning Code.

Based on the above considerations, the requests to amend Special Management Area Use Permit 434 and Special Permit No. 1214 are approved subject to the following revised changes (Material to be deleted is bracketed and struck through; material to be added is underscored):

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.

2. ~~[Permit approval is subject to the Planning Department being furnished with documentation to establish that the American Tower Laupahoehoe site, approved under Special Permit No. 1187, is not a feasible alternative.]~~
- 3.] Construction of the proposed ~~[telecommunication tower, antenna]~~ panel antennas and related improvements shall be completed within two (2) years from the effective date of this ~~[permit]~~ amendment; however, prior to the start of construction, ~~[including co-location of additional carriers,]~~ Final Plan Approval for the proposed ~~[tower, antenna]~~ panel antennas and related improvements shall be secured from the Planning Director in accordance with the Plan Approval requirements for telecommunication towers (Zoning Code, Sections 25-2-71 (c)(3), 25-2-72, 25-2-74 and 25-4-12). Plans shall identify existing and proposed structures, fire protection measures, fencing, driveways, and parking area, and proposed tree planting associated with the use. The ~~[tower and]~~ antenna plans shall be stamped by a structural engineer.
- ~~[4.]~~3. Because the visual effects are mitigated by existing vegetation, existing trees within 100 feet of the tower, on the applicant's property, shall be retained, along with the large tree shown on Figure 10 of the original application.
- ~~[5.]~~4. The antennas shall be the type illustrated within the application. There shall be no dish-type antennas.
- ~~[6.]~~5. Co-location or any expansion of the tower and related facilities within the site may be allowed within the parameters of the tower height and envelope as approved by the Planning Commission upon securing Final Plan Approval. However, the Planning Director shall determine during the Plan Approval process, as to whether the request for co-location shall have significant visual impact that it shall require review by the Planning Commission. Upon a replacement of the tower structure, the Planning Director may review the necessity for the tower and bring the permit back to the Commission to consider termination.
- ~~[7.]~~6. Within 120 days of the permanent abandonment of the tower, the applicant shall remove the tower and its antenna and accessory structures (including the equipment building and the fence), down to, but not including, the concrete foundation. The applicant shall immediately provide written notification to the Planning Director of the termination of the telecommunication tower and related improvements and the removal of all structures.

- [8.]7. Written evidence shall be submitted to the Planning Director with a copy to the Police Department that any proposed expansion of the existing equipment and facility shall not interfere with the County of Hawai'i Public Safety Radio System.
- [9.]8. Should any unidentified sites or remains such as lava tubes, artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- [10.]9. Should there be legitimate access claims to the Mamala Heiau by native Hawaiians for the purpose of exercising native Hawaiian cultural or religious practices, the applicant will work with the landowner to make appropriate access accommodations.
- [11.] ~~An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this permit. The report shall include, but not be limited to, the 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 the approval have been complied with and the Director acknowledges that further reports are not required.~~
- 12.]10. Comply with all applicable rules, regulations and requirements of the affected agencies for the proposed development, including the Federal Aviation Administration and Federal Communications Commission.
- [13.] ~~An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:~~
- A. ~~Non performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, its 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 original reasons for the granting of the permit.~~
 - C. ~~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).~~

Ms. Danette Mettler

Page 6

11. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.
12. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

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

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

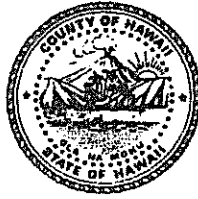


C. Kimo Alameda, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Land and Natural Resources/HPD-Kona
Rodney Haraga, Director/DOT-Highways, Honolulu
Ms. Alice Kawaha
Mr. Robert Usagawa
Plan Approval Section
State Land Use Commission
Cellco Partnership dba Verizon Wireless
Edmund and Terry Broda
Nextel Partners, Inc.

Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

AUG 01 2003

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 03-004)
Special Permit Application (SPP 03-005) ✓
Applicant: Nextel Partners, Inc.
Request: Construction of an 80-Foot Telecommunication Monopole & Related
Facilities on 600± Square Feet of Land
Tax Map Key: 3-6-4:portion of 7

The Planning Commission at its duly held public hearing on July 18, 2003, voted to approve the above-referenced applications. Special Management Area (SMA) Use Permit No. 434 and Special Permit No. 1214 are hereby issued to allow the construction of an 80-foot telecommunication monopole and related ground facilities on a 600-square foot area situated within the State Land Use Agricultural District. The 600-foot site is a portion of a 21+-acre lot located at the north end of Laupahoehoe Gulch and makai of State Highway 19 (Hawaii Belt Road), Waipunalei, North Hilo, Hawai'i.

Approval of these requests are based on the following:

Special Permit

The applicant is requesting to construct an 80-foot tall monopole with a 10-foot tall omni-directional antenna mounted on top of the pole. The pole would be designed to accommodate the placement of another antenna platform for another carrier. In addition to the monopole, the 600 square foot (20' x 30') area would be used for accessory ground facilities. The objective is to provide better coverage in the North Hilo and Hamakua

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areas. The applicant is trying to increase its delivery to the rural areas, as well as enhance service within the urban areas.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. This particular subject property is situated within the County's Agricultural (A-20a) zoned district and within the State Land Use Agricultural District. The project area will encumber a 600 square foot portion of a 21.03-acre parcel. There is a dwelling located on the property. The proposed use will be located within an area whose soils are classified as "B" or "Good" by the Land Study Bureau's Overall Master Productivity Rating. The Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map classifies a portion of the property as Prime Agricultural Lands and a portion is unclassified. As only a 600 square foot portion of the 21.03 acre property will be used, the proposed improvements will not displace a significant portion of the site for agricultural uses, diminish the agricultural potential of the area, or adversely affect the agricultural potential of the property and the surrounding area.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Program. Given the fact that portions of the parcel were previously used by Hamakua Sugar Company for sugarcane cultivation, it is unlikely that any threatened species of plants or animals are present on the property. The Mamala Heiau is located on the property approximately 150 feet from the proposed tower site. DLNR-State Historic Preservation Division has reviewed the request and has concluded that "no historic properties will be affected" by this undertaking. As such, given the size (600 square feet) of the proposed improvements, the disturbed nature of the area of the proposed improvements, the 150+ foot distance between the Mamala Heiau and the proposed site with the extensive intervening vegetation, and the initial comments of the DLNR-SHPD, it does not appear likely that this project would have any adverse impact to the Mamala Heiau or any other possible archaeological features on the site. There is no designated public access to the mountain areas or to the shoreline over the property. The project site is located approximately 1000 feet from the nearest shoreline and is in close proximity to an existing mix of residential/agricultural and vacant lands. The development does not impact any recreational resources, including access to and along the shoreline, mountain access, scenic and open space nor visual resources, coastal ecosystems, and marine coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion. The tower may be visible intermittently from the Māmalahoa Highway;

however, topography and dense and tall vegetative growth along the highway provides significant screening. Although the tower would be visible from certain vantage points, the monopole structure has a slim profile and will be painted to blend in with the existing trees, thereby minimizing the visual impact. Since the tower is not much taller (less than 30 feet) than the existing utility poles, it is not anticipated that the proposed tower would significantly obstruct any makai views. Therefore, the approval of the request will not be contrary to the objectives and policies of the Coastal Zone Management Program.

The desired use shall not adversely affect the surrounding properties. The project site is located behind a row of tall trees and is set back approximately 150 feet from the road to provide a buffer from Māmalahoa Highway. No written objections or comments have been received from the surrounding property owners or the public on this matter.

Nextel constructed a "mock" monopole in response to a suggestion made by a member of the community. It was displayed for approximately 3 days to give community members an opportunity to comment on its impact. No negative comments have been received from the community.

The applicant is proposing to have one additional carrier co-locate on the tower. Therefore, it is recommended that plan approval be required for co-locations. Further, to avoid any unnecessary visual impact, an abandonment clause is included as a condition to require removal of the tower within 120 days after permanent abandonment.

It is anticipated that noise and dust will have minimal impacts at the project site. Generators or air conditioning units will be installed in the equipment buildings. However, it is not anticipated that noise will adversely impact surrounding properties. In regards to radio frequency emissions, the applicant would be required to comply with the requirements of the Federal Communications Commission (FCC). Furthermore, Section 704 of the Federal Telecommunications Act of 1996 recognizes the absence of health hazards from cellular radio wave transmissions and accordingly prohibits local authorities from regulating the placement of cellular towers based on environmental effects of radio frequency emissions, as long as such facilities comply with the FCC's guidelines. As the tower has been designed to and is expected to comply with the above guidelines, no significant adverse impact to surrounding properties is expected.

The desired use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Only electrical and telephone services are required for the use and they are already available to the property. Access to the project site is from Māmalahoa Highway, which is a State-owned road that has a right-of-way of 100+ feet in this area. The pavement width is approximately 24 feet, with 4 to 6 foot wide, grassed/graveled shoulders. As

traffic is anticipated to be minimal, the access to the site on the property is adequate. Fire and police services are available to the project area. Finally, the applicant will meet all applicable agency requirements, including the Federal Communications Commission and the Federal Aviation Administration.

Unusual conditions, trends, and needs have arisen since the district boundaries and regulations were established. In the 1960s and 1970s, when the State's agricultural district boundaries and regulations were first established and subsequently amended pursuant to Chapter 205, Land Use Commission, Hawai'i Revised Statutes, cellular telephone service to the general public was unknown and not available, and the predominant means of audio communication was by traditional telephone service, relying on telephone and power poles and lines. The State Land Use Commission was created in 1961; the interim regulations and temporary district boundaries became effective in 1962; and subsequently the Regulations and Land Use District Boundaries became effective in August 1964. In recognizing that lands within agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District.

Section 205-4.5 of Chapter 205, Land Use Commission, Hawai'i Revised Statutes, lists permitted uses within the agricultural districts. Among others, the permitted uses include "Public, private, and quasi-public utility lines and roadways, transformer stations, communications equipment building," and "Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that such facilities and appurtenances are compatible with agricultural land." While the State Land Use Law recognizes the need for public, private and quasi-public utility lines, roadways, and wind energy facilities to be permitted within agricultural districts, Section 205-4.5 does not specifically permit telecommunication towers. In recent years, however, technological advances in the telecommunications industry have grown considerably and services to the general public have become widespread. This is especially true in rural areas where traditional land-line telephone service is sometimes unavailable due to the high cost of installing power poles and lines. The growth of the cellular telecommunications industry is a worldwide phenomenon and has generated a need for increased telecommunication infrastructure including telecommunication towers and antennas.

This tower will be constructed to improve service coverage to the North Hilo and Hamakua areas. A Hawai'i Supreme Court ruling has determined that a Special Permit would be the appropriate means to establishing telecommunication towers and antennas within the State Land Use Agricultural District.

The land upon which the use is sought is suited for the uses permitted within the district, however, the proposed use will not interfere with such uses. As previously stated, the tower and related improvements would be contained within a 600 square foot of land and enclosed by a chain link fence. Thus, the development will not seriously impair the agricultural productivity or potential of the subject property, nor will it seriously or significantly deplete the County of Hawai'i's agricultural land resource.

The use will not substantially alter or change the essential character of the land and the present use. The tower may be visible intermittently from along Māmalahoa Highway, but topography and dense, tall vegetative growth along the highway significantly screens the tower from view. Since portions of this particular location had been cleared for agricultural uses in the past, it is not anticipated that botanical resources are affected. Should any unidentified sites or remains be discovered in the context of future construction, our standard condition, relating to cease work in the area, shall be included as a precautionary measure. Further, as no valued cultural, historical or native resources (other than Mamala Heiau) or any traditional and customary Native Hawaiian rights were observed being practiced in the area, it is also not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

The request will not be contrary to the General Plan. Although the property is zoned A-20 by the Zoning Code, and the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map designates the area as Intensive Agricultural, only a portion (600 square feet) of the 21.03-acre property will be used for the proposed tower site. The requested use would complement the goals and policies of, among others, the Land Use, Public Utilities and Economic elements of the General Plan.

Public Utilities Element

Policies

- Provide utilities and service facilities which minimize total cost to the public and effectively service the needs of the community.
- Utility facilities shall be designed to minimize conflict with the natural environment and natural resources.
- Improvement of existing utility services shall be encouraged to meet the needs of users.

Based on the above considerations, the approval of an 80-foot monopole

telecommunication tower with a 10-foot antenna and related facilities is an unusual and reasonable use of lands situated within the State Land Use Agricultural District which would not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

Approval of this request is subject to the following conditions. Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Permit approval is subject to the Planning Department being furnished with documentation to establish that the American Tower Laupahoehoe site, approved under Special Permit No. 1187, is not a feasible alternative.
3. Construction of the proposed telecommunication tower, antenna and related improvements shall be completed within two (2) years from the effective date of this permit; however, prior to the start of construction, including co-location of additional carriers, Final Plan Approval for the proposed tower, antenna and related improvements shall be secured from the Planning Director in accordance with the Plan Approval requirements for telecommunication towers (Zoning Code, Sections 25-2-71 (c)(3), 25-2-72, 25-2-74 and 25-4-12). Plans shall identify existing and proposed structures, fire protection measures, fencing, driveways, and parking area, and proposed tree planting associated with the use. The tower and antenna plans shall be stamped by a structural engineer.
4. Because the visual effects are mitigated by existing vegetation, existing trees within 100 feet of the tower, on the applicant's property, shall be retained, along with the large tree shown on Figure 10 of the application.
5. The antennas shall be the type illustrated within the application. There shall be no dish-type antennas.
6. Co-location or any expansion of the tower and related facilities within the site may be allowed within the parameters of the tower height and envelope as approved by the Planning Commission upon securing Final Plan Approval. However, the Planning Director shall determine during the Plan Approval process, as to whether the request for co-location shall have significant visual impact that it shall require review by the Planning Commission. Upon a replacement of the tower structure, the Planning Director may review the necessity for the tower and bring the permit back to the Commission to consider termination.

7. Within 120 days of the permanent abandonment of the tower, the applicant shall remove the tower and its antenna and accessory structures (including the equipment building and the fence), down to, but not including, the concrete foundation. The applicant shall immediately provide written notification to the Planning Director of the termination of the telecommunication tower and related improvements and the removal of all structures.
8. Written evidence shall be submitted to the Planning Director with a copy to the Police Department that any proposed expansion of the existing equipment and facility shall not interfere with the County of Hawai'i Public Safety Radio System.
9. Should any unidentified sites or remains such as lava tubes, artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources--Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
10. Should there be legitimate access claims to the Mamala Heiau by native Hawaiians for the purpose of exercising native Hawaiian cultural or religious practices, the applicant will work with the landowner to make appropriate access accommodations.
11. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this permit. The report shall include, but not be limited to, the 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 the approval have been complied with and the Director acknowledges that further reports are not required.
12. Comply with all applicable rules, regulations and requirements of the affected agencies for the proposed development, including the Federal Aviation Administration and Federal Communications Commission.
13. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

- A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, its 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 original reasons for the granting of the permit.
- C. 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).

Special Management Area Use Permit

The purpose of Chapter 205-A, Hawai'i Revised Statutes and Rule 9, Special Management Area Rules and Regulations of the County of Hawai'i, is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves by dedication or other means.

The proposed project will not have any significant adverse environmental or ecological effect. The applicant proposes to construct an 80-foot tall telecommunication pole with a 10-foot tall omni-directional antenna mounted on top of the pole. The pole would be designed to accommodate the placement of another platform for another carrier. In addition to the monopole, the 600 square foot (20' x 30') area would be used for accessory ground facilities. The objective is to provide better coverage in the North Hilo and Hamakua areas. The applicant is trying to increase its delivery to the rural areas, as well as enhance service within the urban areas. As the subject portion of the property has already been altered, the likelihood of any threatened or endangered species of flora or fauna or their special habitats within the property are remote. Therefore, impacts to the physical environment within the immediate area will be minimal.

The proposed project is consistent with the objectives, policies and guidelines of the Special Management Area. These objectives and policies were established to provide guidance for the preservation, protection and development of coastal resources of the State and County. They identify several areas of management concerns including historic, recreational, scenic resources, coastal ecosystems, economic use and coastal hazards. Portions of the site were formerly used by the Hamakua Sugar Company for its sugar cane operations and surrounding areas are relatively rural with some scattered residences mauka and generally north of the subject site.

Mamala Heiau is a known historic and archaeological feature situated on the subject parcel. It is located approximately 150 feet from the subject tower site. In a letter dated March 12, 2003, the DLNR-State Historic Preservation Division noted to one of the applicant's consultant (South Pacific Geotechnical, Inc.) that it is believed that " 'no historic properties will be affected' by this undertaking;" as intensive cultivation has altered the land. As such, given the size (600 square feet) of the proposed improvements, the 150+ foot distance between the Mamala Heiau and the proposed site with the extensive intervening vegetation, the initial comments of the DLNR-SHPD, it does not appear likely that this project would have any adverse impact to the Mamala Heiau or any other possible archaeological features on the site. The proposed use would not interfere with any recreational resources, natural shoreline processes or impact view planes to the coastal area. Compliance with existing governmental regulations to control runoff, drainage and erosion would mitigate any adverse impact to the area's environment or the ecology of the area's coastal waters.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawai'i Revised Statutes, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. This particular subject property is situated within the County's Agricultural (A-20a) zoned district and within the State Land Use Agricultural District. The project area will encumber a 600 square foot portion of a 21.03-acre parcel. There is a dwelling located on the subject property. The proposed use will be located within an area whose soils are classified as "B" or "Good" by the Land Study Bureau's Overall Master Productivity Rating. The Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map classifies a portion of the property as Prime Agricultural Lands and a portion is unclassified. The proposed improvements do not displace any significant portion of the agricultural uses on the property, diminish the agricultural potential of the area, or adversely affect the agricultural potential of the property and the surrounding area.

The proposed project within the Special Management Area is consistent with the General Plan and Zoning Code. Although the property is zoned A-20 by the Zoning Code, and the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map designates the area as Intensive Agricultural, only a portion (600 square feet) of the 21.03-acre property will be used for the proposed tower site. The requested use would complement the goals and policies of, among others, the Land Use, Public Utilities and Economic elements of the General Plan.

Public Utilities Element

Policies

- Provide utilities and service facilities which minimize total cost to the public and effectively service the needs of the community.
- Utility facilities shall be designed to minimize conflict with the natural environment and natural resources.
- Improvement of existing utility services shall be encouraged to meet the needs of users.

Based on the above, the proposed project will not have any substantial adverse impacts to the subject or surrounding area; and therefore will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the Special Management Area, the General Plan and Zoning Code of the County of Hawai'i.

Approval of this request is subject to the following conditions. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Permit approval is subject to the Planning Department being furnished with documentation to establish that the American Tower Laupahoehoe site, approved under Special Permit No. 1187, is not a feasible alternative.
3. Construction of the proposed telecommunication tower, antenna and related improvements shall be completed within two (2) years from the effective date of this permit; however, prior to the start of construction, including co-location of additional carriers, Final Plan Approval for the proposed tower, antenna and related improvements shall be secured from the Planning Director in accordance with the Plan Approval requirements for telecommunication towers (Zoning Code, Sections 25-2-71 (c)(3), 25-2-72, 25-2-74 and 25-4-12). Plans shall identify existing and proposed structures, fire protection measures, fencing, driveways, and parking area, and proposed tree planting associated with the use. The tower and antenna plans shall be stamped by a structural engineer.

4. Because the visual effects are mitigated by existing vegetation, existing trees within 100 feet of the tower, on the applicant's property, shall be retained, along with the large tree shown on Figure 10 of the application.
5. The antennas shall be the type illustrated within the application. There shall be no dish-type antennas.
6. Co-location or any expansion of the tower and related facilities within the site may be allowed within the parameters of the tower height and envelope as approved by the Planning Commission upon securing Final Plan Approval. However, the Planning Director shall determine during the Plan Approval process, as to whether the request for co-location shall have significant visual impact that it shall require review by the Planning Commission. Upon a replacement of the tower structure, the Planning Director may review the necessity for the tower and bring the permit back to the Commission to consider termination.
7. Within 120 days of the permanent abandonment of the tower, the applicant shall remove the tower and its antenna and accessory structures (including the equipment building and the fence), down to, but not including, the concrete foundation. The applicant shall immediately provide written notification to the Planning Director of the termination of the telecommunication tower and related improvements and the removal of all structures.
8. Written evidence shall be submitted to the Planning Director with a copy to the Police Department that any proposed expansion of the existing equipment and facility shall not interfere with the County of Hawai'i Public Safety Radio System.
9. Should any unidentified sites or remains such as lava tubes, artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or walls be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
10. Should there be legitimate access claims to the Mamala Heiau by native Hawaiians for the purpose of exercising native Hawaiian cultural or religious practices, the applicant will work with the landowner to make appropriate access accommodations.

11. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this permit. The report shall include, but not be limited to, the 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 the approval have been complied with and the Director acknowledges that further reports are not required.
12. Comply with all applicable rules, regulations and requirements of the affected agencies for the proposed development, including the Federal Aviation Administration and Federal Communications Commission.
13. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, its 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 original reasons for the granting of the permit.
 - C. 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).

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.

Mr. Sidney Fuke
Page 13

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu
Long Range Planning
Mr. Robert Usagawa
Plan Approval Section
State Land Use Commission
Calvert Chun, Nextel