

William P. Kenoi  
Mayor



BJ Leithead Todd  
Director

Margaret K. Masunaga  
Deputy

## County of Hawai'i

### PLANNING DEPARTMENT

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

February 5, 2010

Mr. Eric Kaneshiro  
RealCom & Associates, LLC  
P.O. Box 12155  
Honolulu HI 96828

Dear Mr. Kaneshiro:

**Subject: Special Management Area Use Permit Assessment Application (SAA 09-000507)**  
**Special Management Area Minor Permit No. 10-000141**  
**Applicant: AT&T Wireless**  
**Land Owner: Orchid 09 LLC**  
**Request: Install a Stealth Telecom Facility on the Rooftop of the North Tower**  
**Tax Map Key: 6-8-22:8, Fairmont Orchid Resort, South Kohala, Hawaii**

This is to follow up on our January 8, 2010 letter relating to the above-referenced Special Management Area Assessment Application to install a stealth telecom facility on the rooftop of the North Tower of the Fairmont Orchid Hotel complex. Also acknowledged is a February 3, 2010 email confirming that the tax map key number of the subject parcel should be corrected to 6-8-22:8.

This parcel is designated Urban by the State Land Use Commission. The project site is designated Resort Node by the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map and zoned Resort-Hotel (V-1.25) by the County.

Since the project site is on top of the existing North Tower of the hotel complex, the requirement of a certified shoreline survey is waived.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)(A)(v) relating to Special Management Area, the proposed project does not qualify as exempt from the definition of "development". Therefore, a Special Management Area Minor Permit is required.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 10-000141 is hereby issued to install a stealth telecom facility on the rooftop of the North Tower, subject to compliance with the conditions of approval as specified in the permit.

**SCANNED**

**FEB 06 2010**

**By: \_\_\_\_\_**

Mr. Eric Kaneshiro  
RealCom & Associates, LLC  
February 5, 2010  
Page 2

Finally, all other applicable Zoning and Building Code requirements must also be satisfied.

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8139.

Sincerely,



BJ LEITHEAD TODD  
Planning Director

ETI:cs

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Enclosures - SMM No. 10-000141  
Department of Public Works January 22, 2010 Memo

cc w/Enclosures: Long Range Planning  
Mr. Daryn Arai, Planning Commission  
Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T  
Planning Department - Kona

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### Special Management Area Minor Permit No. 10-000141

**Project:** Install a Stealth Telecom Facility on the Rooftop of the North Tower  
**Applicant:** AT&T Wireless  
**Land Owner:** Orchid O9 LLC  
**Location:** Fairmont Orchid Resort, South Kohala, Hawaii  
**TMK:** 6-8-22:8 **Land Area:** 19.396 acres (Hotel)

#### Applicant's Request

#### 1. Project Description:

The unmanned telecom facility will include a stealth design built to resemble an extension to the elevator machine room. It will extend 8'6" above the elevator, and contain 9 antennas. Also up on the rooftop will be equipment that will be between the roof walls and not exceed the height of the surrounding walls. Thus the antennas and equipment will be either behind a stealth shield or below the surrounding building line and unseen from the area below.

#### 2. Purpose of Project:

The objective is to improve wireless phone service into Fairmont Orchid Resort and the surrounding Kohala area.

#### 3. Project Valuation: \$95,000.

#### 4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)A(v) relating to the Special Management Area, the "*Construction, reconstruction, demolition, or alteration of the size of any structure*" is defined as "development." Therefore, the proposed stealth telecom facility on the rooftop of the North Tower requires a SMA Minor Permit.

### State and County Plans

1. **State Land Use District:** The subject property is designated Urban by the State Land Use Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the subject site as Resort Node.
3. **County Zoning:** The project site is zoned Resort-Hotel (V-1.25).
4. **Land Use Permit:** Hawaii County Zoning Code Section 25-4-12(a) states that *"A telecommunication antenna or tower shall be permitted in all districts, except RS, RD, RM and RCX districts; ..."*  
  
PUD No. 16, approved at a Planning Commission hearing on March 9, 1978, allowed a height of 70' above grade and 80' above sea level  
  
The Hawaii County Zoning Code, Section 25-4-22 states that *"The following structures are exempt from zoning district height limits under the specified restrictions: (a) Chimneys, spires, belfries, water tanks, monuments, steeples, antennae, flag poles, vent pipes, fans, structures housing or screening elevator machinery and other similar features, not to exceed ten feet above the governing height limit."* The total height of the improvements to the North Tower will be 76'-10".
5. **Special Management Area (SMA):** The subject property is located in the SMA.
6. **Flood Zone:** The subject property is located within Flood Zones "VE and AE".

### Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area

Both the antennas and the equipment will be located between the Resorts roof walls and not exceed the height of the surrounding walls. Thus both antennas and equipment will be located behind a stealth shield or be below the surrounding building line and unseen from the area below.

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

### Findings

The proposed development is consistent with the following objectives and policies:

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and the elimination of planning options.

- ☒ The proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
  - ☒ Provide coastal recreational opportunities accessible to the public.
  - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
  - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
  - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
  - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
  - ☒ Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence and pollution.
  - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
  - ☒ Stimulate public awareness, education, and participation in coastal management.
  - ☒ Protect beaches for public use and recreation.
  - ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
  - ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
  - ☒ Beach Protection
  - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

## Findings

As discussed above, the proposed development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest.

The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$95,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated January 22, 2010 for the corrected tax map key parcel number states the following:

*"We reviewed the subject application and our comments are as follows:*

*We have determined that the subject property is located within Flood Zones "VE and AE" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA)*

*Any new construction, substantial improvements to the subject structure will be subject to the requirements of Chapter 27 - Flood Plain Management, of the Hawai'i County Code."*

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 10-000141** is hereby approved to install a stealth telecom facility on the rooftop of the North Tower, subject to the applicant's compliance with the conditions of approval as specified below.

## Conditions of Approval


The Planning Director has approved **SMA Minor Permit No. 10-000141** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Applicant shall secure Plan Approval from the Planning Department for the proposed development within one year from the date of approval of SMA Minor Permit No. 10-000141.
3. All construction activities in connection with this project shall be completed within two (2) year from the date of Plan Approval. The applicant shall immediately notify the Planning Department, in writing, upon the completion of the construction activities.

4. The applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
5. An extension of time for the performance of the conditions contained herein 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 original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
6. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:

  
BJ Leithead Todd  
Planning Director

  
Date



PLANNING DEPARTMENT  
200 JAN 26 AM 10:56

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

DATE: January 22, 2010

**Memorandum**

**TO :** B. J. Leithead-Todd, Planning Director  
Planning Department

**FROM :** Galen M. Kuba, Division Chief *bk*  
Engineering Division

**SUBJECT :** Special Management Area Use Permit  
Assessment Application (SAA 09-000507)  
Applicant: AT&T Wireless  
Land Owner : Mauna Lani Resort LLC  
Request: Install a Stealth Telecom Facility - Rooftop of the North  
Tower

TMK: 3 / 6-8-022: 008 Fairmont Orchid-North Wing Tower

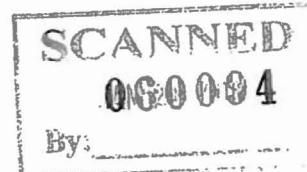
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Any new construction, substantial improvements to the subject structure will be subject to the requirements of Chapter 27 - Flood Plain Management, of the Hawaii County Code.

Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office at 327-3530.

KE  
copy: ENG-HILO/KONA





PLANNING DEPARTMENT  
COUNTY OF HAWAII

**DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII**

2010 JAN 26 PM 12:56

DATE: January 22, 2010

## **Memorandum**

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Planning Department

**FROM :** Galen M. Kuba, Division Chief *tk*  
*el* Engineering Division

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