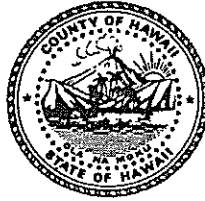


Harry Kim  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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CERTIFIED MAIL  
7000 0600 0024 2905 3318

MAR 19 2001

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

Dear Mr. Fuke:

Special Permit Application (SPP 01-01)  
Applicant: SprintCom, Inc. (Kohala Mountain Road Pole)  
Request: Establishment of a 35-Foot Telecommunication Wood Pole,  
Microwave Dish and Related Equipment and Improvements  
Tax Map Key: 6-2-1:Portion of 23

The Planning Commission at its duly held public hearing on March 2, 2001, voted to approve the above-referenced application. Special Permit No. 1104 is hereby issued for the establishment of a 35-foot telecommunication wood utility pole, antennas, microwave dish and related equipment building and improvements on approximately 400 square feet of land in the State Land Use Agricultural District. The project area is located approximately 134 feet makai of Kohala Mountain Road and adjacent to the existing Puu Makela Radio Station, Kawaihae 2<sup>nd</sup>, South Kohala, Hawaii.

Approval of this request is based on the following:

SprintCom, Inc. (Sprint PCS) is proposing to construct a new 35-foot telecommunication pole equipped with twelve panel antennas, an 8-foot dish antenna, a 6-foot lightning rod mounted on top of the pole and related appurtenant ground facilities within a 400 square foot area enclosed by a 6-foot high chain link fence. The pole will be designed to sustain winds of at least 100 miles per hour. To reduce visual impacts, the pole may be painted to match the color of the existing telephone poles in the area or left its natural color to blend with its surroundings. The appurtenant ground facilities will consist of four Base Transceiver Station (BTS) equipment cabinets, electrical equipment boxes, and an emergency diesel or propane powered generator mounted on a 4.5-foot by 2-foot concrete pad. Due to the pole's reduced height, it has not been designed to

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accommodate other carriers. However, the applicant's representative has provided a statement that SprintCom will be made available for co-location, provided that the structural integrity of the pole can be maintained. The proposed site was selected to work in conjunction with a previously approved site in the Lalamilo Farm Lots in Waimea and a future site in the vicinity of Hualalai. Currently, SprintCom is searching for a site along the Mamalahoa Highway between Puuwaawaa and the Kona Palisades Subdivision, as well as another site between Puuanahulu and Waimea. Due to the site's approximate 3,500-foot elevation, the required pole height is only 35 feet, thus minimizing visual impacts to the surrounding area. Also, locating the pole next to the existing Puu Makela Radio Station facility and the 35-40 foot high telecommunication towers operated by Western PCS (VoiceStream Wireless) and Verizon Hawaii on the subject property should not significantly increase existing visual impacts to the surrounding area.

The granting of this request would promote the effectiveness and objectives of Chapter 205, Hawaii 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 Hawaii. 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-40a) zoned district and within the State Land Use Agricultural District. The subject property has been developed with the Puu Makela Radio Station facility and two other telecommunication tower facilities. The subject property is used for pasture and this existing agricultural use will continue on the subject property. The use is located within an area whose soils are classified as "D" or "Poor" by the Land Study Bureau's Overall Master Productivity Rating. The Agricultural Lands of Importance to the State of Hawaii (ALISH) Map considers the area as unclassified. The proposed use includes a licensed or leased area that covers approximately 400-square foot area of an approximately 6,595-acre parcel. The proposed improvements will not displace any of the existing agricultural uses on the property, diminish the agricultural potential of the area nor adversely affect the agricultural potential of the property or its surrounding area.

The granting of this request would promote the effectiveness and objectives of Chapter 205A, Hawaii Revised Statutes, relating to coastal zone management program. Given the fact that the parcel has been previously used as pasture, it is unlikely that any archaeological features and threatened species of plants or animals are present on the property. Applicable agency comments relating to the proposed use support this conclusion. There is no designated public access to the mountain areas over the property. The subject property is located over 6 miles from the nearest shoreline and is adjacent to an area used primarily for pasture. The proposed development will not impact any recreational, 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 nor beach erosion. Finally, due to its location, it is not anticipated that the proposed pole would significantly obstruct any ocean (makai) views or significantly affect view planes from the Kohala Mountain Road. Therefore, the approval of the subject request shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations.

The desired use shall not adversely affect the surrounding properties. The 35-foot high proposed telecommunications pole and related improvements will be situated on a 400-square foot portion of an approximate 6,595-acre parcel of land. This parcel of land is bounded by the Kohala Mountain Road to the east, Luahine Gulch to the south, the Kawaihae Road and the Akoni Pule Highway to the west, and the Makahuna Gulch to the north. Surrounding properties are other large acreage parcels zoned Agricultural (A-40a and A-5a) and characterized by open space and pasture uses. There are no residences in the area. The project site is located approximately 134 feet makai of the Kohala Mountain Road and will thus have some visual impact. However, this impact is significantly mitigated by the reduced height of the pole and its proximity to existing similar structures. According to the applicant, the pole can either be painted to match the color of the existing poles or left its natural wood color to minimize any visual impact to the immediate area. Also, the project site is located near a curve in the road where a prolonged makai view will not occur. Further, to avoid any unnecessary visual impact, an abandonment clause is included as a condition, to require removal of the telecommunications pole within a 120-day period after permanent abandonment.

The applicant will be required to comply with Department of Health regulations to mitigate the effects of dust and noise during construction. Once construction is completed, traffic is expected to be minimal as service personnel will only visit the site for maintenance only. It is anticipated that noise generated by the back-up generator and possible air conditioning units will have a minimal impact beyond the project site, given its remote location and the size of the subject property. Therefore, 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. 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 as long as these towers comply with the Federal Communication Commission's guidelines. As the monopole has been designed to and will be 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 these are already

available to the property. Access to the subject property is from Highway 250 onto an existing gravel driveway that currently services the Puu Makela Radio Station and the two other 35 to 40-foot high telecommunication towers operated by Western PCS and Verizon Hawaii. As traffic is anticipated to be minimal, the existing driveway on the subject property is deemed adequate. Fire, police and emergency services are available from the fire station and police station located in Waimea Town, approximately 8 miles away. Further, the applicant has stated that their system will not interfere with the County of Hawaii Public Safety System. Finally, the applicant shall 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 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, Hawaii 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 and roadways to be permitted within agricultural districts, and including wind energy facilities, 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. The proposed monopole is part of the expansion of Sprint PCS's telecommunication infrastructure and will enable them to expand their service area to a portion of South Kohala to provide uninterrupted telecommunication services to its customers throughout the County of Hawaii. A Hawaii 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. The subject property is an agricultural resource and is used primarily for pasture. The Land Study Bureau's Detailed Land Classification System classifies soils within the subject property as "D" or "Poor." The Agricultural Lands of Importance to the State of Hawaii (ALISH) Map considers the area as unclassified. The property is suitable for agricultural uses and will continue to be used for that purpose. The monopole site will be limited to 400 square feet of land area and thus will not seriously impair the agricultural productivity or potential of the 6,595-acre subject property, nor will it seriously or significantly deplete the County of Hawaii's agricultural land resource.

The use will not substantially alter or change the essential character of the land and the present use. The proposed tower site is limited to a 400-square foot portion of a 6,595-acre property that is presently used as pasture and open space. Although the pole will be visible from Highway 250, it is set back approximately 134 feet and will not substantially alter or change the essential character of the land nor alter or change the existing uses on the property. As the property has been in pasture for some time, it is not anticipated that cultural, archaeological or botanical resources will be affected. Nonetheless, should there be inadvertent discoveries of archaeological features during construction, work will cease and the applicant will contact the County Planning Department and the State Historic Preservation Division.

The request will not be contrary to the General Plan. The subject property is within an area designated as Extensive Agricultural by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The monopole site will be limited to a 400-square foot portion of land, and thus does not preclude the other portions of the property from continuing to be used for agricultural purposes by the owner. Also, the use is consistent with the following goals and policies of the General Plan.

#### Economic Element

- Provide residents with opportunities to improve their quality of life.
- Economic development and improvements shall be in balance with the physical and social environments of the island of Hawaii.
- The County of Hawaii shall strive for diversity and stability in its economic system.
- The County shall provide an economic environment which allows new, expanded, or improved economic opportunities that are compatible with the County's natural and social environment.

- The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.
- The County of Hawaii shall encourage the research, development and implementation of advanced technologies and processes in existing and potential economic endeavors.

#### Natural Beauty

- Protect, preserve and enhance the quality of area endowed with natural beauty, including the quality of coastal scenic resources.
- Protect scenic vistas and view planes from becoming obstructed.
- Criteria of safeguards of natural beauty shall be provided in the design review of developments so as to blend and harmonize man-made elements with their natural setting.

#### Public Utilities

- Ensure that adequate, efficient and dependable public utility services will be available to users.
- Maximize efficiency and economy in the provision of public utility services.
- To have public utility facilities which are designed to fit into their surroundings or concealed from public view.
- Provide utilities and service facilities which minimize total cost to the public and effectively service the needs of the community.
- Encourage the clustering of developments in order to reduce the cost of providing utilities.

#### Land Use Element

- Designate and allocate land areas in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.

Based on the above considerations, the approval of a new 35-foot high telecommunication wood utility pole, antennas, microwave dish and related equipment buildings and improvements 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, successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed telecommunication pole and antennas shall be completed within two (2) years from the effective date of this permit.
3. Prior to the start of construction, Final Plan Approval for the proposed 35-foot high monopole and antennas and related improvements shall be secured from the Planning Director in accordance with the 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 associated with the use. Monopole and antenna plans shall be stamped by a structural engineer.
4. Co-location or any expansion of the monopole and related facilities within the monopole site may be allowed within the parameters of the monopole height and envelope as approved by the Planning Commission.
5. Within 120 days of the permanent abandonment of the monopole, the applicant shall remove the monopole and its antennas 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 monopole and related improvements and the removal of all structures.
6. Written evidence shall be submitted to the Planning Director with a copy to the Police Department that the proposed development shall not interfere with the County of Hawaii Public Safety Radio System.
7. 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.

8. Comply with all applicable rules, regulations and requirements of the affected agencies for the development of the subject property, including the Federal Aviation Administration and Federal Communications Commission.
9. Upon compliance with applicable conditions of approval, and upon completion of construction for any portion of the development, the applicant shall submit a written status report to the Planning Director.
10. 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, 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.
  - 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).

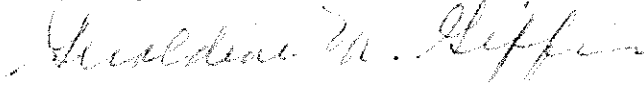
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.



Mr. Sidney Fuke  
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Should you have any questions, please contact Daryn Arai of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

Lsprintcomspp01-001PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
State Land Use Commission  
Department of Land & Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Ms. Kathy Yonemine