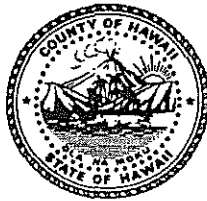


Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

CERTIFIED MAIL

7000 0600 0024 2903 8452

JUL 27 2001

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

Dear Mr. Fuke:

Special Permit Application (SPP 01-009)

Applicant: SprintCom, Inc.

Request: To Allow a New 60-Foot Telecommunications Monopole, 6-Foot

Lightning Rod, Related Equipment Buildings and Structures, and Security Fence

Tax Map Key: 7-2-3:Portion of 3

The Planning Commission at its duly held public hearing on July 6, 2001, voted to approve the above-referenced application. Special Permit No. 1111 is hereby issued for the establishment of a new 60-foot telecommunication monopole with a 6-foot lightning rod, antennas, dish antenna, related equipment buildings and structures, and security fence on approximately 1,075 square feet of land in the State Land Use Agricultural District. The project area is located on the makai side of Mamalahoa Highway, approximately one mile northeast of the entrance to the Makalei Golf Course, Kaupulehu, North Kona, Hawaii.

Approval of this request is based on the following:

SprintCom, Inc. (Sprint PCS) is proposing to construct a new 60-foot telecommunication pole with three panel antennas, an 8-foot dish antenna, and a 6-foot lightning rod mounted on top of the pole and related appurtenant ground facilities within a 1,075 square foot area enclosed by a 7.5-foot high chain link and barbed wire fence. The pole will be designed to accommodate the placement of another antenna platform for an additional carrier, and approximately 400 square feet of land area within the 1,075

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JUL 27 2001

square feet project area will be set aside for the appurtenant ground facilities of a future carrier. The applicant intends to use a 400 square foot (16' by 25') area for its appurtenant ground facilities, which will be separated from the 400 square foot area for a future carrier by an 11-foot wide strip, thereby bringing the total land area to 1,075 square feet (43' by 25'). The project site is located approximately 150 feet makai of the Mamalahoa Highway and at an elevation approximately 30-40 feet below that of the highway. Due to the grade difference between Mamalahoa Highway and the site of the proposed pole, the pole would extend approximately 20-30 feet above the highway. To reduce visual impacts, new trees will be planted adjacent to the project area and the pole will be painted to match the color of the existing landscaping. The pole will be designed to sustain winds of at least 100 miles per hour. The appurtenant ground facilities will consist of four equipment cabinets, two electrical equipment boxes, and a permanent diesel or propane powered generator.

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. The requested project site area would be within an approximately 7,516-acre parcel of land that is classified as Agricultural (A-5a) and Open (O) by the County, and Agricultural and Conservation by the State Land Use Commission. This area of the project site within the subject property is situated within the County's Agricultural (A-5a) zoned district and within the State Land Use Agricultural District. The subject property has been improved with two well sites and three reservoir sites as well as road and utility easements to service these sites. The area of the subject property where the proposed site is to be located has been improved with an existing 12-foot wide gravel road. The mauka portion of the property, where the requested use is sought, is currently used for cattle grazing. 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 does not classify the majority of the subject property area as having any agricultural importance. Portions along the southeast and southwest corners of the property are classified as Other Important Agricultural Land by the ALISH map but it should be noted that the proposed project site is not within these areas. Soils on the subject property are of the Punaluu (rPYD) and Kaimu (rKED) series, as well as Aa (rLV) and Pahoehoe (rLW) lava and cinder land (rCL) series. The location of the Punaluu series correspond with the unclassified soils on the ALISH map whereas the Kaimu soils correspond with the Other Important Agricultural Land identified by the ALISH map. Soils within the project area are of the Punaluu series. The Punaluu series consists of well-drained, thin

organic soils over pahoehoe lava bedrock. Punaluu soils are used for pasture. Runoff is slow and the erosion hazard is slight. The proposed use includes a licensed or leased area that covers an approximately 1,075-square foot area of an approximately 7,516-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 and continues to be 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. The area of the proposed project site within the subject property is located over 6 miles from the nearest shoreline. 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, any coastal hazards nor beach erosion will not affect the property. 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 Mamalahoa Highway. 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 60-foot high proposed telecommunications pole and related improvements will be situated on a 1,075-square foot portion of an approximate 7,516-acre parcel of land. The subject property is bounded by Mamalahoa Highway to the east, Queen Kaahumanu Highway to the west, and the land divisions of Puuwaawaa to the north and Kukio 1st and 2nd and Maniniowali to the south. The property ranges in elevation from 200 feet to 2,300 feet above sea level. The project site is located at an elevation of approximately 2,300 feet above sea level and is located over six miles from the shoreline. The proposed tower site is approximately 30-40 feet below the elevation of Mamalahoa Highway. Surrounding properties are other large acreage parcels zoned Agricultural (A-20a and A-5a) and characterized by open space and pasture uses. There are no residences in the area. The project site is located approximately 150 feet makai of the Mamalahoa Highway and will thus have some visual impact. However, due to its location at an elevation of 30-40 feet below that of the highway, the pole will appear to be approximately half the height of existing utility poles adjacent to the highway. According to the applicant, the visual exposure to vehicular traffic travelling from Waimea to Kona will be abbreviated, as the pole would be located just after a slight curve in the road. The visual exposure for vehicular traffic travelling from Kona to Waimea, however, will be slightly longer. In order to further mitigate the visual impacts of the proposed pole, the applicant intends to plant trees to screen the pole from the highway and paint the pole to match the color of

the landscaping. While it is expected that these mitigation measures will reduce the visual impact of the pole, it was suggested by a homeowner in the area that prior to the actual construction of the pole that the applicant place a pole at the proposed location and discuss its specific location with the three to four homeowners in the general area. Depending on the outcome of this discussion, appropriate adjustments could be made to further mitigate the visual impacts of the pole. The applicant has indicated that it is prepared to do this and a condition has been included in this recommendation that requires such action. 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 an existing gravel driveway, approximately ½-mile long from Mamalahoa Highway to the area of the proposed project site. 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 Kailua-Kona, 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 all of South Kohala and the North Kona coast and certain upper areas along the Mamalahoa Highway. The proposed monopole will enable SprintCom 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 area of the proposed project site 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 marginal agricultural uses and will continue to be used for that purpose. The monopole site will be limited to 1,075 square feet of land area and thus will not seriously impair the agricultural productivity or potential of the 7,516-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 1,075-square foot portion of a

7,516-acre property, a portion of which is presently used as pasture and open space. Although the pole will be visible from the Mamalahoa Highway, it is set back approximately 150 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, Conservation and Open by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The monopole site will be limited to a 1,075-square foot portion of land within the portion designated as Extensive Agricultural by the LUPAG Map, 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 60-foot telecommunication monopole with a 6-foot lightning rod, panel antennas, dish antenna, related equipment building and structures 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 60-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. In conjunction with the submittal of plans for the Final Plan Approval application, the applicant shall provide detailed photographs and/or similar visual aids of the proposed improvements from different vantage points along the Mamalahoa Highway. Based on these and any additional information, and prior to the issuance of Final Plan Approval, the Planning Director may require the proposed improvements to be relocated within a 300-foot radius of the requested area to further mitigate the proposed improvements from the Mamalahoa Highway.
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—State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD 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
Page 10

Should you have any questions, please contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,

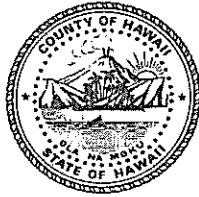


Geraldine M. Giffin, Chairman
Planning Commission

Lsprintcomspp01-009PC

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
Brian Minaai, Director/DOT-Highways, Honolulu
Sprintcom, Inc.

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

August 6, 2002

Ms. Kathy Yonamine
Sr. Property Specialist
Sprint PCS
1132 Bishop Street, 11th Floor
Honolulu, HI 96813

Dear Ms. Yonamine:

Special Permit (SPP 1111)
Applicant: SprintCom, Inc.
Subject: Revocation of Special Permit No. 1111
Tax Map Key: 7-2-003: Portion of 003

This is to acknowledge receipt of your letter dated July 15, 2002 requesting that Special Permit No. 1111 be voided as you will not be commencing construction of the antenna site on the subject property.

We will initiate procedures to revoke the subject permit and will notify you as to the date of the hearing as soon as it has been determined. Should you have any questions regarding the above, please do not hesitate to contact Daryn Arai or Noreen Kato of our Kona office at 327-3510.

Sincerely,

CHRISTOPHER J. YUEN
Planning Director

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cc: Planning Dept. - Kona

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PLANNING DEPARTMENT
COUNTY OF HAWAII

Site Development - Hawaii
1132 Bishop Street, 11th Floor
Honolulu, Hawai'i 96813
Telephone: (808) 566-5215
Fax: (808) 566-9580

July 15, 2002

Mr. Christopher Yuen, Director
Planning Department
County of Hawaii
101 Pauahi Street
Suite #3
Hilo, Hawaii 96720

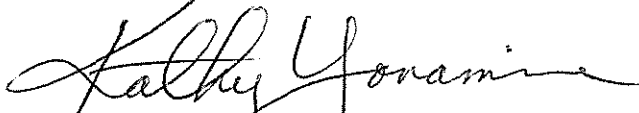
Dear Mr. Yuen:

Re: SPP 1111 (SprintCom, Inc. Antenna Site, TMK: 7-02-03: Por.003)

Sprint PCS would like to inform the Hawaii County Planning Commission that we will not be commencing with the construction of the antenna site approved under SPP 1111. We respectfully request that the Planning Commission void permit SPP 1111.

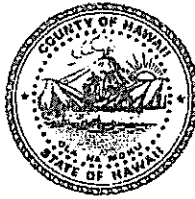
Thank you for your time and consideration. Should you have any questions or concerns, please feel free to contact me at (808) 566-5215 (office) or (808) 561-4544 (PCS).

Sincerely,


Kathy Yonamine
Sr. Property Specialist
Sprint PCS

#21248

Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

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

DEC 02 2002

Ms. Kathy Yonamine
Sprint PCS
1132 Bishop Street, 11th Floor
Honolulu, HI 96813

Dear Ms. Yonamine:

Special Permit (SPP 1111)
Applicant: SprintCom, Inc.
Subject: Revocation of Special Permit No. 1111
Tax Map Key: 7-2-3:Portion of 3

The Planning Commission at its duly held public hearing on November 1, 2002, voted not to revoke Special Permit No. 1111 issued to SprintCom, Inc. that allowed the establishment of a new 60-foot high telecommunication monopole with a 6-foot lightning rod, antennas, dish antenna, related equipment buildings and structures, and security fence on approximately 1,075 square feet of land in the State Land Use Agricultural District. The project area is located on the west side (makai) of Māmalahoa Highway, approximately one mile north of the entrance to the Makalei Golf Course, Ka'ūpūlehu, North Kona, Hawai'i.

The Commission's decision is based on the following:

Although the Planning Director initiated revocation based on SprintCom, Inc.'s request, correspondence was subsequently received on behalf of Nextel Partners, Inc. requesting that the permit not be revoked. According to Real Property Tax records, PIA-Kona Ltd. Partnership is the current lessee. Keeping Special Permit No. 1111 active allows their client, Nextel Partners, Inc., to assume the permit and construct and operate the cell tower. Nextel Partners, Inc. has confirmed that they will comply with all stated conditions of approval. Therefore, the permit should remain active for the new lessee.

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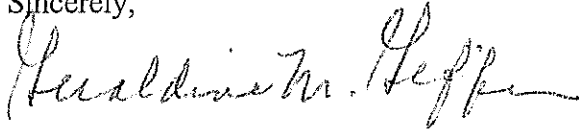
DEC 04 2002

Ms. Kathy Yonamine

Page 2

Should you have questions regarding the above, please contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Geraldine M. Giffin, Chairman
Planning Commission

lsprintrevokespp1111

cc: Planning Department – Kona
Mr. Roger Harris/PIA-Kona Ltd. Partnership