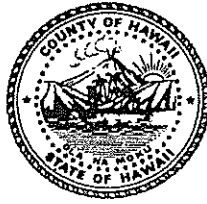


Harry Kim  
Mayor



## 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 6519

FEB 15 2002

Ms. Danette Mettler  
General Dynamics  
c/o Martin Pacific Property Services  
75-5755 Alii Drive, Suite 247  
Kailua-Kona, HI 96740

Dear Ms. Mettler:

Special Permit Application (SPP 01-029)  
Applicants: Crown Castle GT LLC & Cellco Partnership  
dba Verizon Wireless (Paauilo Tower)  
Request: Establishment of a 250-Foot Lattice Telecommunication Tower  
With Safety Lights, Antennas and Related Equipment  
Tax Map Key: 4-3-3:Portion of 31

The Planning Commission at its duly held public hearing on January 18, 2002, voted to approve the above-referenced application. Special Permit No. 1135 is hereby issued to establish a 250-foot lattice telecommunication tower with safety lights, antennas, lighting rod, related equipment buildings and accessory structures on approximately 6,000 square feet of land in the State Land Use Agricultural District. The project site is located east of the County's Pa'auilo Transfer Station, along the makai side of Old Main Road and approximately 275 feet mauka of Mamalahoa Highway, approximately 1,900 feet west (Waimea side) of Pa'auilo Village, Pa'auilo, Hamakua, Hawaii.

Approval of this request is based on the following:

The applicants are requesting to establish a 250-foot lattice telecommunication tower with safety lights, antennas, lighting rod, related equipment buildings and accessory structures. A 10-foot high lighting rod will be installed on top of the proposed

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tower; Verizon Wireless proposes twelve 8-foot high panel antennas at the top of the proposed tower; and future 6-foot high panel antennas for 4 future carriers at different levels on the tower, 12-foot intervals below the top. The applicants propose to design the tower facility to accommodate up to five (5) carriers. Cellco Partnership dba Verizon Wireless intends to install its antennas at the top of the tower, with the other carriers' antennas staged at different levels of 12 feet intervals below the top of the tower. Crown Castle GT Company LLC has received applications to co-locate at the facility from Sprint, Nextel and Voicestream. This site will provide coverage for the Pa'auilo area and Highway 19. It will bridge the gap between Honokaa and Ookala. The proposed tower site will provide connection to an existing 200-foot tower facility located mauka of Ookala Village and Mamalahoa Highway and to an antenna installed on the existing laundromat building located at the corner of Mamalahoa Highway and Pakalana Street, across of Tex Drive In & Restaurant.

Initially, the applicants had proposed a 167 feet telecommunication tower on a commercial zoned area within Pa'auilo Village. However, the residents in the area were opposed to the construction of the tower at that site. According to the applicants, plans were subsequently presented to the Pa'auilo community, and they endorsed the proposed plans at the subject project site.

Cellco Partnership dba Verizon Wireless, formerly known as GTE Mobilenet of Hawaii, Inc., received its FCC license to provide wireless communications to the State of Hawaii in 1989. Within the first five years, Verizon Wireless needed to provide a footprint of coverage in the State of Hawaii (primarily highway coverage). Initially in 1990, sites were established in both Hilo and Kona. Thereafter, sites and island coverage expanded to Waikoloa Resort, Keahole, Captain Cook, Ninole, Kau, Volcano, Waimea, Mountain View, and a second site in Hilo. Further expansion led to sites at the Four Seasons, Hapuna Beach, Hawi, Waimea East, Keauhou, Honokaa, Huehue Ranch, Ookala, Saddle Road and Keaau. The build-out process is a continuing effort and eventually, service will be provided island-wide.

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-1a) zoned district and within the State Land Use Agricultural District. The subject property has an existing farm dwelling and the remaining area is in cattle grazing. The existing agricultural use will continue on the subject property. The proposed use will be located

within an area whose soils are classified as "C" or Fair by the Land Study Bureau's Overall Master Productivity Rating. The Agricultural Lands of Importance to the State of Hawaii (ALISH) Map classifies a major portion of the property as Prime Agricultural Lands and unclassified within the gulch area. The proposed tower facility will be situated at the top of the bank of Waipunahina Gulch. 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 location of the proposed telecommunication site has been previously cleared for sugarcane cultivation and cattle grazing, it is unlikely that any archaeological features and threatened species of plants or animals are present on the property. There is no designated public access to the mountain areas nor to the shoreline over the property. The project site is located more than 5,000 feet from the nearest shoreline and is in close proximity to an existing mix of residential, commercial, and vacant lands. The proposed development will 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 nor beach erosion. The proposed tower will be visible from certain areas along the Mamalahoa Highway and Hauola Road. Due to its location and distance from the ocean, it is not anticipated that the proposed tower would significantly obstruct any ocean (makai) views. Therefore, the approval of the subject request shall 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 proposed 250-foot high tower and related improvements will be situated on a 6,000 square foot portion of the 8.677-acre parcel of land. The nearest residence is the existing farm dwelling on the property, approximately 1,000 feet. The proposed 250-foot tower with lights will be located in the vicinity of existing electric and telephone utility poles along Mamalahoa Highway and Hauola Road. Further, there are eucalyptus, ironwood and ohia trees adjacent to the project site within the Waipunahina Gulch. The proposed site is not good from the standpoint of visual aesthetics because it is near the highway and will be very visible to passing motorists. This site is recommended for approval because the alternative site in Paauilo Village received more objections from the community, even though it would have been located in a permitted zoned district. Because the height of the proposed tower is over 200 feet, the Federal Aviation Administration requires safety lights on the top of the proposed tower. At night, a red medium-intensity light and a white light on during the day. The applicants propose to plant eucalyptus or protocopus

trees between the proposed site and the existing dwelling, to minimize the visual impact looking from Pa'auilo Village and north on Highway 19. The proposed tower will be painted green on the bottom half to blend with the surrounding vegetation, and sky gray at the top to blend with the sky. It is recommended, however, that a tree planting plan be submitted and additional trees be planted to minimize any visual impact the added height may have to surrounding properties in the vicinity; including but not limited to properties to the southwest (further mauka), southeast (Hilo side) and from Mamalahoa Highway. As previously mentioned, the applicants initially had proposed a 167 foot telecommunication tower on a commercial zoned area within Pa'auilo Village. However, the residents in the area were opposed to the construction of the tower at that site and instead, endorsed the proposed tower facility at the subject project site. No objections were received regarding this site.

According to the applicants, Verizon Wireless proposes to install twelve 8-foot high panel antennas at the top of the tower, with the other carriers' antennas staged at different levels of 12 foot intervals below the top of the tower. The tower will be designed to accommodate nine total panel antennas for each four future carriers. Although co-location is encouraged, it is understandable, that at a certain point, the number of antennas placed on a 250-foot tower, could have a visual impact. Therefore, it is recommended that plan approval be required for co-location and that the Planning Director may refer the request for additional antennas back to the Planning Commission for review and approval. 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.

The applicants 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 sound will have a minimal impact beyond the project site. There will be a back-up generator in the equipment building, however, it will be air-conditioned. Therefore, it is not anticipated that noise will adversely impact surrounding properties. In regards to radio frequency emissions, the applicants 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 proposed tower 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 service is required for the use and this is already available to the property. Access to the project site is from Hauola Road. As traffic is anticipated to be minimal, the proposed driveway leading to the leased site on the subject property is adequate. Fire, police and emergency services are available to the project area. Further the applicants have stated that their system will not interfere with the County of Hawaii Public Safety System. Finally, the applicants 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 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, Hawaii 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, 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 tower is part of the expansion of Verizon's telecommunication infrastructure and will enable them to enhance their service area between Honokaa and Ookala area to provide uninterrupted telecommunication services to its customers throughout the County of Hawaii. The proposed tower facility would also enhance service by other carriers that propose to co-locate at the project site. 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. As previously stated, a farm dwelling exists on a portion of the subject property and the remaining area is in cattle grazing, and will continue to be used as such. The proposed tower facility will be limited to 6,000 square feet of land area at the top of the bank of Waipunahina Gulch. Thus, the proposed project will not seriously impair the agricultural productivity or potential of the 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 250-foot tower and antennas will be located approximately 182 feet mauka from the Mamalahoa Highway. There is a high embankment immediately makai of the project site along Mamalahoa Highway. However, the proposed tower and antennas will be visible from certain areas while travelling along the highway. It is also expected that view of the proposed tower and antennas would be visible by nearby residents and the village area. There are eucalyptus, ironwood and ohia trees adjacent to the project site within the Waipunahina Gulch. Since this particular location has been originally cleared, it is not anticipated that cultural, archaeological or botanical resources will be affected. Should any unidentified sites or remains be discovered during the land clearing or construction stages, 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 nor any traditional and customary Native Hawaiian rights were 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. The subject property is within an area designated as Low Density Urban Development on the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The project area is not listed as an example of Natural Beauty. 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.

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.
- 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.

The Northeast Hawaii Community Development Plan (CDP) was adopted by County Ordinance No. 445 effective date June 26, 1979. The Land Use Concept Map depicts the property to remain for agricultural uses. However, it should be noted that this is a "View Plane" area, as identified in the Composite Planning Map in the Northeast Hawaii Community Development Plan. These are areas that are commonly observed

while traveling along the Mamalahoa Highway and include spaces and views from the road that comprise the highway experience.

Based on the above considerations, the approval of a proposed 250-foot high lattice tower, safety lights, antennas, related equipment buildings and security fence 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 applicants, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed telecommunication facility shall be completed within five (5) years from the effective date of this permit.
3. Prior to securing Final Plan Approval, to reduce visibility of the tower from surrounding properties and from Mamalahoa Highway, a Tree Planting Plan shall be submitted to the Planning Director for review and approval. The plan shall include the type and number of trees and should include a visual layout specifically showing the location of the planting.
4. Prior to the start of construction, Final Plan Approval for the proposed 250-foot high tower 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, and proposed tree planting associated with the use. The tower and antenna plans shall be stamped by a structural engineer.
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.



6. Within 120 days of the permanent abandonment of the tower, the applicants shall remove the tower and its antennas and accessory structures (including the equipment building and the fence), down to, but not including, the concrete foundation. The applicants 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.
7. 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.
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.
9. 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.
10. Upon compliance with applicable conditions of approval, and upon completion of construction for any portion of the development, the applicants shall submit a written status report to the Planning Director.
11. 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 applicants, 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 General Plan or Zoning Code.

Ms. Danette Mettler  
General Dynamics  
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- 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.

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

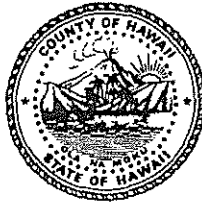
Sincerely,



Geraldine M. Giffin, Chairman  
Planning Commission

Lcrowncastle01PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land & Natural Resources  
Brian Minaai, Director/DOT-Highways, Honolulu  
Crown Castle GT, LLC  
Cellco Partnership



## 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

June 23, 2009

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

Dear Ms. Mettler:

Revocation of Special Permit No. 1135  
Crown Castle GT LLC and Cellco Partnership dba Verizon Wireless  
Tax Map Key: 4-3-3:portion of 31

The Windward Planning Commission at its duly held public hearing on June 5, 2009, voted to approve your request to revoke Special Permit No. 1135, which allowed the establishment of a 250-foot telecommunication tower and related improvements on 6,000 square feet of land situated within the State Land Use Agricultural District. The property is located east of the Pa'auilo Solid Waste Transfer Station, along the makai side of Hauola Road, approximately 182 feet mauka of the Māmalahoa Highway, and approximately 1,900 feet west of Pa'auilo Village, Pa'auilo, Hāmākua, Hawai'i.

You had stated in your request that the license contract for the land to operate the tower has expired and that homes have been constructed in the area where the proposed tower was to be located. Therefore, the Commission approved your request to revoke Special Permit No. 1135.

Should you have any questions regarding this matter, please contact Norman Hayashi of the Planning Department at 961-8288, x205.

Sincerely,

Rell Woodward, Chairman  
Windward Planning Commission

Lcrownkastlerevokespp1135

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
State Land Use Commission  
Department of Land and Natural Resources/HPD  
State DOT-Highways, Honolulu

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JUN 23 2009