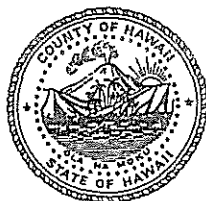


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

March 7, 2005

Mr. William Keoni Fox
Alii Wireless Specialists LLC
2333 Kapiolani Blvd. #2410
Honolulu, HI 96826

Dear Mr. Fox:

Special Permit Application (SPP 03-018)
Applicant: SpectraSite Communications, Inc.
Request: Retain Existing 200-Foot Telecommunications Tower and
Related Improvements
Subject: Status Report (Compliance With Condition No.7
Tax Map Key: 1-7-17: portion of 153

This is to acknowledge receipt of your letter dated February 23, 2005 informing the Planning Department of your compliance with listed conditions of the above listed special permit. Final Plan Approval was secured on February 9, 2005 in compliance with Condition No. 2. Your letter will serve as the final status report in compliance with Condition No. 7 and no future reports are needed. You are required to continue to comply with all listed conditions of the special permit.

Thank you for your cooperation. If you have any questions, please feel free to contact Jeff Darrow at 961-8288.

Sincerely,


CHRISTOPHER J. YUEN
Planning Director

JWD:smn
P:\WPWIN60\JEFF\Letters\Compliance\LFox-StatusReport-SP1248.doc

cc w/copy of letter: Planning Commission

Hawai'i County is an Equal Opportunity Provider and Employer

MAR 9 2005


Ali'i Wireless Specialists LLC

2333 Kapiolani Blvd. #2410, Honolulu, HI 96826

Tel: (808) 351-6279 Fax: (808) 955-1864

2005 FEB 25 PM 1 17

PLANNING DEPARTMENT
COUNTY OF HAWAII

February 23, 2005


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

RE: Status Report (SPP 1248)
Applicant: SpectraSite Communications, Inc.
Tax Map Key: (3) 1-7-017: 153

Dear Mr. Yuen:

I am in receipt of your letter dated February 15, 2005 granting Plan Approval for the existing 200-foot guyed telecommunication tower and related telecommunication building improvements. SpectraSite Communications has complied with all conditions of the Special Permit and Plan Approval. SpectraSite Communications will not be responsible for future progress letters on the behalf of collocators. Please feel free to contact me if you have any questions or concerns.

Sincerely,

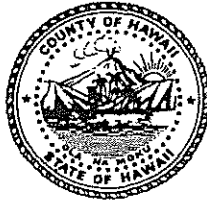


William Keoni Fox
Agent for SpectraSite Communications
(808) 351-6279 mobile
(808) 955-1864 fax
foxw001@hawaii.rr.com

CC: Denise Gribben, SpectraSite Communications

066945

Harry Kim
Mayor



County of Hawaii

PLANNING COMMISSION

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

November 9, 2004

Mr. William Keoni Fox
2333 Kapiolani Boulevard, Suite 2410
Honolulu, HI 96826

Dear Mr. Fox:

Special Permit Application (SPP 03-018)
Applicant: SpectraSite Communications, Inc.
Request: Retain Existing 200-Foot Telecommunication Tower and
Related Improvements
Tax Map Key: 1-7-17:portion of 153

The Planning Commission at its duly held contested case hearing on October 22, 2004, voted to approve the above-referenced application. Special Permit No. 1248 is hereby issued to allow the retention of an existing 200-foot telecommunications tower and antenna, communication equipment building, four satellite dishes, generator and fuel tanks, and related improvements. The property is located approximately 2.5 miles north of Highway 11, at the corner of Kulani Road and South Road, O'laa Reservation Lots, Keaau, Puna, Hawaii.

Approval of this request is based on the following:

The applicant, SpectraSite Communications, Inc., is requesting to allow the retention of an existing 200-foot guyed telecommunications tower and antennae that is centered on a concrete base, along with an appurtenant 25'x45' prefabricated communication equipment building to house radio equipment, four satellite dishes, a generator and fuel tanks and a chain link security fence. The tower is equipped with a strobe lighting system in accordance with FAA rules and regulations. There are several different types of antennae located at different heights of the tower used by other wireless service providers. The equipment building sits on a concrete slab that is approximately 27'x 48' (1296 square feet). There are three 17-foot diameter satellite dishes mounted to the ground on concrete pads and one 10-foot diameter satellite dish that is set in gravel. The tower and building are surrounded by a six-foot high chain link fence topped with barbed wire for security. The applicant has submitted the application to comply with the ruling issued by Judge J. Nakayama of the State of Hawaii Supreme Court, filed on

W061964
NOV 10 2004

May 20, 1999, that a cellular telephone tower (or telecommunication tower) on State Land Use Agricultural lands requires a Special Permit.

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-20a) zoned district and within the State Land Use Agricultural District. The subject property that the project site is located at has no dwellings and has been used for cattle grazing and pasture. The existing agricultural uses will continue on the subject property. The use is located within an area whose soils are classified as "E" or "Very 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. Given the fact that the existing use is on an area that covers approximately 11,413 square feet of an approximate 29-acre parcel, the existing use will displace very little of the existing agricultural uses on the property. Neither will the use diminish the agricultural potential of the area or 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 cleared and used for 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 over the property. The subject property is located over 10 miles from the nearest shoreline and is adjacent to an existing mix of agricultural, residential and pasture uses. The existing use will not impact any recreational resource, 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 at the high elevation, the existing tower will not significantly obstruct any ocean (makai) views or significantly affected view planes. Therefore, the approval of the subject request would not be contrary to the objectives sought to be accomplished by the Coastal Zone Management Program.

The desired use shall not adversely affect the surrounding properties. There are several dwellings immediately surrounding the subject property on the northwest property and a dwelling across North Kulani Road to the west. There are also homes on adjacent parcels, some of which were constructed or improved after the development of the project. To the north and northwest is the Waiakea Forest Reserve that is zoned

Conservation and has a tree line of Eucalyptus trees. To the east are larger lots zoned Ag-20a. To the south and west are approximate 5 acre lots zoned Ag-5a and several non-conforming subdivisions including Pacific Paradise Gardens and Livingston Subdivision.

Nearby residents do have some visibility of the existing tower and antennae. However, overhead telephone poles and lines that exist along North Kulani Road and South Road disperse the visual impact of the tower. Further, the existing forested areas located towards Highway 11 and the Eucalyptus trees within the Waiakea Forest Reserve will provide some buffer to minimize any visual impacts to the adjacent property owners. According to the applicant, the tower was not painted as the gray color of the galvanized steel best matches the hues of the sky to further minimize the visual impact to the immediate area. Lastly, to avoid any unnecessary prolonged visual impact, an abandonment clause is included as a condition, to require removal of the tower within 120 days after permanent abandonment.

The existing tower and antennae have been in place since 1994. According to Planning Department files, no complaints have been received regarding this use.

Traffic is minimal as service personnel visit the site for maintenance only. According to the applicant, the only source of noise that may be emitted from the project results from an air conditioner and a generator that are necessary to maintain correct temperature and humidity in the equipment building. The resulting noise is virtually inaudible from farther than 100 feet except under extraordinary quiet conditions. 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 existing tower and antennae have 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 is already available to the property. Access to the project site is from South Road near the North Kulani Road – South Road intersection onto an existing unpaved driveway. Fire, police and emergency services are available from the fire station and police station located in Keaau Town, approximately 8 miles away. 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 landline 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. 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.

SpectraSite's existing tower and antennae would allow for continued uninterrupted telecommunication services to customers in the Hilo and Puna area. It will also allow for co-location of other wireless service providers that will minimize construction of additional tower sites.

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 located within an agricultural and is used primarily as pasture. The Land Study Bureau's Detailed Land Classification System classifies soils within the subject property as "E" or "Very Poor." The Agricultural Lands of Importance to the State of Hawaii (ALISH) Map considers the area as unclassified. The property is suitable for certain types of agricultural uses and will continue to be used for that purpose. The tower site will be limited to an 11,413 square feet of land area and thus 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 existing tower site is limited an 11,413-square foot portion of an approximate 29-acre property that has been and will continue to be used for cattle grazing and pasture. Although the tower is visible from areas along North Kulani Road, the visual impacts are minimized by the existing tree lines, forested areas and existing overhead electrical and telephone lines. Therefore, the existing use 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 originally cleared, it is not anticipated that cultural, archaeological or botanical resources will be affected.

The request will not be contrary to the General Plan. The subject property is within an area designated as Orchards by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The existing tower and antennae will be limited to an 11,413-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.

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.

The existing tower and antennae will provide wireless service to the Hilo and Puna areas and allow for co-location of other wireless service providers. This will allow for the continued expansion of cellular service to these areas. The growth of the cellular telecommunications industry has generated a need for increased telecommunication infrastructure including telecommunication towers and antennas.

The proposed development will not have a significant adverse impact to traditional and customary Hawaiian rights:

Investigation of valued resources: The applicant submitted an 1) Archaeological and Limited Cultural Assessment that was conducted on August of 2003 and prepared by Robert B. Rechtman, Ph.D. of Rechtman Consulting, LLC and a 2) Flora and Fauna Report conducted by Ron Terry, Ph.D. in August of 2003 from which the Planning Commission can determine the valued cultural, historical, and natural resources within the area sought for a Special Permit.

The valuable cultural, historical, and natural resources found in the permit area: The Archaeological and Limited Cultural Assessment concluded that no archaeological resources were observed within the project area and none have been previously identified in the immediate vicinity. Also, no resources of a potential cultural nature were observed.

According to the Flora and Fauna Report, Ron Terry, Ph.D. states that because the entire project site appears to have previously been a cattle pasture, and the site is managed by mowing, the vegetation at the project site is almost entirely alien. He also states that because of the lack of tree or shrub cover and a scarcity of food resources, only a few birds were observed on the site, and all were common aliens.

Possible adverse effect or impairment of valued resources: The Archaeological and Limited Cultural Assessment concluded that the placement of the antenna facility did not adversely affect any historic (including traditional cultural) properties.

The Flora and Fauna Report conducted by Ron Terry, Ph.D. concluded by stating that no listed, candidate or proposed endangered plant or animal species were found or would be expected in the area. In terms of conservation value, no botanical or zoological resources requiring special protection are present. Because of the lack of native ecosystems and threatened or endangered plant species, no adverse impacts would likely occur as a result of continued use of the site as a communications tower.

The property is not used for access to the mountains or any mountain feature nor is it used for access to the shoreline. Therefore, no public access to these areas will be impacted by the proposed action.

Feasible actions to protect native Hawaiian rights: There has been no record or evidence of gathering taking place on the subject property. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights.

Based on the above considerations, the approval to allow the retention of an existing 200-foot telecommunications tower and antennae, communications equipment building, four satellite dishes, generator and fuel tanks, chain link security fence, driveway access, and related improvements on a 11, 413 square foot area 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 comply with all of the stated conditions of approval.

2. Final Plan Approval by 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 shall be secured for the existing 200-foot tower and antennae, and for any future improvements permitted under Condition No. 3. Development plans shall identify existing and proposed structures, fire protection measures, roadways, driveway and parking areas, fencing and any landscaping associated with the proposed uses. Tower and antenna plans shall be stamped by a structural engineer.
3. Co-location or any expansion on the tower and antennae shall be allowed within the parameters of the building height and envelope as represented.
4. Within 120 days of the permanent abandonment of the tower, the applicant shall remove the microwave tower, antenna and accessory structures, with the exception of the concrete foundation. The applicant shall provide written notification to the Planning Director of such removal.
5. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials 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.
6. 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.
7. Upon compliance with applicable conditions of approval, and upon completion of construction for any portion of the development, the applicant shall submit a status report, in writing, to the Planning Director.
8. An extension of time for the performance of conditions of 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 the Zoning Code.

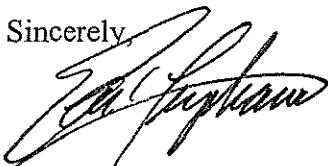
Mr. William Keoni Fox
Page 9

- C) Granting of the 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 Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lspectrasite03PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
Department of Land & Natural Resources-HPD/Kona
Ms. Denise Gribben
Mr. Ronald Wong & Dr. Bernard Fong