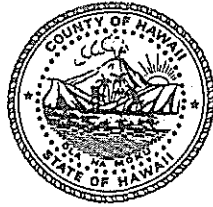


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

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

June 28, 2004

Mr. Eric Schatz, Project Manager
Crown Castle International
99-115 Aiea Heights Drive, Suite 253
Aiea, HI 96701

Dear Mr. Schatz:

Special Permit Application (SPP 04-008)
Applicant: Crown Castle International
Request: Retain Existing 75-Foot Wooden Monopole Tower With
Accompanying Equipment & Structures, Including a New Generator
Tax Map Key: 6-4-29:portion of 1

The Planning Commission at its duly held public hearing on July 16, 2004, voted to approve the above-referenced application. Special Permit No. 1238 is hereby issued to allow the retention of an existing 75-foot wooden monopole tower with accompanying equipment and structures, including a new generator on approximately 1,050 square feet of land situated within the State Land Use Agricultural District. The property is located along the southwest side of Uikeoni Street, approximately 0.5 mile from the Highway 19 – Uikeoni Street junction, Puukapu Acres Subdivision, Puukapu, South Kohala, Hawaii.

Approval of this request is based on the following:

The applicant is requesting a Special Permit to allow the retention of an existing 75-foot wooden monopole, appurtenant equipment shelters and chain link fence enclosure on approximately 1,050 square feet of land on a 1.319-acre parcel in the Lakeland Subdivision in South Kohala. The facility received a building permit on December 13, 1996 to construct a 75-foot utility pole with three (3) directional antennas, a pre-fabricated equipment shelter placed on a concrete slab and a chain link fence with 3-strand barbed wire. The applicant will be adding an emergency generator to the facility.

The site plays an integral role in providing critical wireless communications coverage to transportation corridors and residents in the Waimea

MW057499 JUL 28 2004

area. The site will help to implement Crown Castle's plan to expand and assist wireless carriers in improving coverage on the Big Island and provide service to all major populated areas. Crown Castle International currently owns twelve existing CCI antenna sites servicing the Big Island. The towers are located in Volcano, Naalehu, Milolii, Huehue, Saddle Road, Ninole, Waimea, Hawi, Ka'u, Kailua-Kona, Hilo and Captain Cook. In addition, a facility in Paauilo was recently approved by the Planning Commission and will be developed in the near future.

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. There are no residences on the subject property. The parcel is characterized as pasture land and primarily used for cattle grazing. Other than the existing and proposed telecommunication facilities sites, this agricultural use will remain. 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 has not classified the property. The property is primarily in pasturage and the proposed use will encompass 1,050 square feet of land but will not displace any large area 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. There is no designated public access to the mountain areas or to the shoreline through the subject property. The project site is located more than eight (8) miles from the nearest shoreline and is in close proximity to existing pasturage 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. Due to its location and distance from the ocean, it is not anticipated that the proposed telecommunication wood utility pole 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 75-foot high telecommunication wood utility pole with three (3) directional antennas and related improvements will be situated on approximately a 1,050 square foot portion of a 1.319-acre parcel of land. The nearest residences are located approximately 300 feet away. The proposed telecommunication wood utility pole with antennas is placed near a row of 40-foot trees located on the adjacent parcel to help screen the tower from most view angles. Two residences have a view of the facility from their property, but existing trees and landscaping provide some visual mitigation. To avoid any unnecessary visual impact, an abandonment clause is included as a condition, to require removal of the wood monopole within 120 days after permanent abandonment.

Although co-location is encouraged, the wooden pole has structural capacity for the current antennas, but little reserve. Any future antennas would likely require strengthening or replacement of this pole and is therefore not being considered at this time.

In regards to radio frequency emissions, the applicant 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 telecommunication wood utility pole 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 and school improvements, and police and fire protection. Telephone and electrical service are currently available to the property. Access to the project site is from a gravel driveway off of Uikeoni Street in the Puukapu Acres Subdivision. As traffic is anticipated to be minimal, the roadway leading to the leased site on the subject property is adequate. Since the proposed facility will be unmanned, water and wastewater systems are not required for the facility. 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 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 telecommunication tower with antennas is part of the expansion of Crown Castle International's telecommunication infrastructure and plays an integral role in providing critical wireless communications coverage to transportation corridors and residents in the Waimea area. The site will help to implement Crown Castle's plan to expand and assist wireless carriers in improving coverage on the Big Island and provide service to all major populated areas enable

them to provide seamless telecommunications coverage along this section of the Big Island. 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 use will not substantially alter or change the essential character of the land and the present use. The subject property and its surrounding area have been used for single family residences and pasture. As previously stated, the proposed telecommunication facility will encompass about 1,050 square feet of a 1.319-acre parcel of land. The remainder of the property will remain in pasture use. The State Historic Preservation Division stated that they believe no historic properties will be affected since previous grubbing/grading has altered the land. According to the applicant, the property has been utilized primarily for grazing. Further, as the tower and related improvements already exist on the site, the probability of any endangered species of flora or fauna is remote. Mauna Kea Soil & Water Conservation District states that the area is adjacent to a known Native Hawaiian species habitat for the Kolea Duck and the Hoary Bat, although no nesting sites were witnessed during the visual inspection. The Kolea duck was previously sited near the lake area and the Hoary Bat was sited in the area in 1992. It is unlikely that this use would have a negative impact to these species. The State Historic Preservation Division stated that they believe no historic properties will be affected since previous grubbing/grading has altered the land. Finally, as no valued cultural or historical, 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 Intensive Agricultural on the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. 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 proposed telecommunication facility would also be implementing the following Hawaii State Plan goals and objectives of Chapter 226, Hawaii Revised Statutes.

Economy---Information Industry

- (b) To achieve the information industry objective, it shall be the policy of this State to:
 - (1) Encourage the continued development and expansion of the telecommunications infrastructure serving Hawaii to accommodate future growth in the information industry;

Facility Systems---telecommunication

- (b) To achieve the telecommunications objective, it shall be the policy of this

State to ensure the provision of adequate, reasonably priced, and dependable telecommunications services to accommodate demand.

- (c) To further achieve the telecommunications objective, it shall be the policy of the State to:
- (1) Facilitate research and development of telecommunications systems and resources;
 - (2) Encourage public and private sector efforts to develop means for adequate, ongoing telecommunications planning;
 - (3) Promote efficient management and use of existing telecommunications systems and services; and
 - (4) Facilitate the development of education and training of telecommunications personnel.

Based on the above considerations, the approval of the existing 75-foot high telecommunication wood utility pole with antennas and related appurtenant equipment buildings 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 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 prior to any commencement of construction. 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.

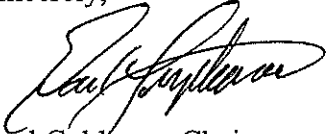
4. Within 120 days of the permanent abandonment of the tower, the applicant shall remove the microwave tower, antenna and accessory structures, with the exception of the concrete foundation. The applicant shall provide written notification to the Planning Director of such removal.
5. Should any remains 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.
 - 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.

Mr. Eric Schatz, Project Manager
Crown Castle International
Page 9

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

Sincerely,



Fred Galtones, Chairman
Planning Commission

Lcrowncastlespp04-008PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning - Kona
State Land Use Commission
Department of Land & Natural Resources
Rodney Haraga, Director/DOT-Highways, Honolulu