

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

April 13, 2009

Ms. Laurie Ann Chan
Avalon Development Company, LLC
841 Bishop Street, Suite 1601
Honolulu, HI 96813

Dear Ms. Chan:

Use Permit Application (USE 08-000014)

Applicant: T. Mobile West Corporation

Request: 150-Foot Telecommunication Tower and Associated Equipment

Tax Map Key: 1-7-6:31

On January 15, 2009, March 6, 2009, and March 20, 2009, the Planning Commission considered the above-referenced request for a Use Permit to allow the construction of a 150-foot monopole telecommunication tower and associated equipment on approximately 900 square feet of land situated within the Single Family Residential – 20,000 square feet (RS-20) zoned district. The property is the site of the Kurtistown Assembly of God Church, which is located on the mauka (northeast) side of Highway 11 directly across the Highway 11 – Kuauli Road Junction, Kurtistown, Puna, Hawai'i.

During a meeting on March 20, 2009, a Motion to Approve the request did not pass with 4 ayes to 2 noes. A subsequent vote to deny the request also did not pass with 2 ayes to 4 noes. Since there was no official action taken by the Planning Commission on March 20, 2009, the matter was to be continued to the next regularly scheduled Planning Commission meeting for possible action. However, because ninety days after acceptance of the use permit application has passed prior to the next regularly scheduled meeting, and the Commission has neither approved or denied the application, the application is hereby deemed automatically approved pursuant to Section 91-13.5(c), Hawai'i Revised Statutes, which states:

“(c) All such issuing agencies shall take action to grant or deny any application for a business or development-related permit, license, or approval within the established maximum period of time, or the application shall be deemed

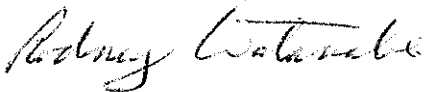
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approved; provided that a delay in granting or denying an application caused by the lack of quorum at a regular meeting of the issuing agency shall not result in approval under this subsection; provided further that any subsequent lack of quorum at a regular meeting of the issuing agency that delays the same matter shall not give cause for further extension, unless an extension is agreed to by all parties.”

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, x205.

Sincerely,



Rodney Watanabe, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
Real Property Tax Office
Brandon Gonzales, Esq.
The Honorable J Yoshimoto, County Council
Pastor Damien Shrinski, Kurtistown Assembly of God
Ms. Avis Nomura
Mr. Gilbert Bailado ✓