

## 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

February 23, 2010

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

Dear Ms. Chan:

Use Permit Application (USE 09-000017)

Applicant: T-Mobile West Corporation

Request: Construction of an Unmanned 150-Foot Telecommunication Tower

With Related Equipment on 2,500 Square Feet of Land

Tax Map Key: 1-4-49:41

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The Windward Planning Commission at its duly held public hearing on February 5, 2010, voted to approve the above-referenced application to allow the construction of a 150-foot telecommunication tower and related improvements on 2,500 square feet of land within the County's Single-Family Residential (RS-10) zoned district. The property is located at the northeast corner of the Kēhau Road and Tutu Lane intersection, Nānāwale Estates Subdivision, Unit I, Pu'ua, Puna, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Use Permit to allow the construction of a 150-foot tall telecommunication tower and related equipment within a 2,500-square foot area of a 1.598-acre parcel. Antennas on the tower will include the applicant's antenna array, consisting of twelve panel antennas and one E-911 GPS antenna, as well as sufficient space for up to five additional future telecommunication carriers to co-locate. Related equipment will include four equipment cabinets and a backup generator on two raised concrete pads enclosed by a 6-foot high chain link fence. The equipment will be maintained and inspected by a technician about once a month during normal working hours. The purpose of the proposed facility is to provide expanded wireless phone service to a significant portion of Nānāwale Estates and Hawaiian Beaches by bridging the coverage gap between existing towers near the geothermal plant, the town of Pāhoa and Ainaloa Subdivision. The proposed site will expand coverage east towards the ocean and provide better in-car and in-building coverage to its users.

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits, requires that such action conform to the following guidelines:

- A. The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan;
- B. The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties; and
- C. The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure.

The proposed use meets the guidelines for approval of a Use Permit, for the reasons outlined below:

**The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan.** The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses, as well as consistency with the goals and policies of the General Plan. The Zoning Code states that Single-Family Residential districts “provide for lower or low and medium density residential use, for urban and suburban family life.” Additionally, telecommunication antennas and towers can be permitted within a Single-Family Residential zoned district if a Use Permit is approved by the Planning Commission.

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The General Plan designation for this property is Low Density Urban, which allows for single-family residential uses, ancillary community and public uses, and neighborhood and convenience-type commercial uses. Allowable uses within these areas, with a Use Permit, may include telecommunication facilities that serve the residents in the area. The request is also consistent with the Public Utilities element of the General Plan and the Public Safety goal of the Puna Community Development Plan, which is to encourage the enhancement of cell phone service to

expand coverage to more remote areas. Based on the above, the request is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code, the County General Plan and the Puna Community Development Plan.

**The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties.** The project site is located on a parcel used for non-residential purposes, adjacent to the Nānāwale Community Center. The surrounding area is zoned RS-10 and characterized by mostly vacant parcels with a few single-family residences located west of Kēhau Road. The proposed location was selected over a site on the north end of the subdivision based upon input provided by the community at a meeting held by the applicant at the Nānāwale community longhouse on June 10, 2009. The proposed tower will be visible from adjacent properties when viewed from the north, east and west, but will be partially screened by a row of trees when viewed from the south. Ground equipment will be screened from public view by a 6-foot high chain link fence with privacy slats. The tower, antennas, visible cables and mounting hardware will be painted a non-reflective earth tone to blend in with the surrounding landscape in order to further minimize the visual impact of the structure on surrounding properties. Therefore, it is not anticipated that the approval of the request will have a major negative impact on the surrounding community. Additionally, it is anticipated that the approval of the telecommunication tower will be beneficial to the community as it will provide increased cell phone coverage in the area and will be a significant resource for emergency services.

**The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, school improvements, police and fire protection and other related infrastructure.** As the telecommunication tower will be an un-manned facility, infrastructure and services such as water, sewer, police and fire will not be required. Electricity and telephone services are available to the site. Access to the site is via a gravel access easement on the subject property from Kēhau Road, which is a paved roadway in excellent condition that is owned and maintained by the community association. Therefore, the requested use will not burden public agencies to provide additional services or infrastructure.

**In addition to the criteria for granting a Use Permit, the request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area.** The subject property is located over 4 miles to the nearest shoreline and is not located in the Special Management Area, and therefore will not be impacted by coastal hazards and beach erosion. There are no identified coastal recreational resources, coastal scenic and open space resources, coastal ecosystems, and beach or marine resources in the area. Thus, the proposed request will not adversely impact coastal

resources. Additionally, there is no record of a designated public access to the shoreline or mountain areas that traverses the property. According to the applicant, no valued cultural, historical or natural resources exist on the property and there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site. Therefore, no action is necessary to protect these rights.

Based on the above, this request is approved by the Planning Commission subject to the following conditions:

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-71(c)(3), 25-2-72, 25-2-74 and 25-4-12, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify proposed structures, fire protection measures, access easements, parking areas and any fencing associated with the use. The antenna plans shall be stamped by a structural engineer.
3. The applicant shall paint the tower and antennas, including future co-location antennas, a color that will best blend the tower and antennas with their immediate surroundings. Prior to Plan Approval, the applicant shall submit a photo-simulation of the site with the proposed tower and color to the Planning Director for review and approval of the color choice.
4. All exterior lighting shall be shielded.
5. Co-location of antennas on the tower shall be allowed within the parameters of the building height and envelope as represented.
6. 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-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.
7. Within one hundred and twenty (120) days of the permanent abandonment of the tower, the applicant shall remove the tower, antennas and accessory structures.

The applicant shall provide written notification to the Planning Director of such removal.

8. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Federal Aviation Administration and Federal Communications Commission.
9. An initial 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).

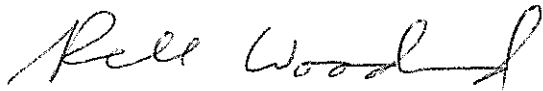
Should any of the conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate the revocation of the permit.

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.

Ms. Laurie Ann Chan  
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Should you have any questions, please contact the Planning Department at 961-8288.

Sincerely,

A handwritten signature in cursive script that reads "Rell Woodward". The signature is written in black ink and is positioned above the typed name.

Rell Woodward, Chairman  
Windward Planning Commission

Ltmobileuse09-000017PC

cc: T. Mobile West Corporation  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Mr. Gilbert Bailado /