

## County of Hawai'i

### LEEWARD PLANNING COMMISSION

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

**JUL 31 2013**

Mr. Les Young  
RealCom Associates, LLC  
1506 Ala Mahamoe Street  
Honolulu, HI 96819

Dear Mr. Young:

Use Permit Application (USE 11-000030)

Applicant: Celco Partnership dba Verizon Wireless

Request: To Allow the Construction of a 114-Foot Monopole and Related  
Improvements on a 900-Square Foot Portion of a 3.592 Acre Property

Tax Map Key: 8-7-010:013

The Leeward Planning Commission, at its duly held public hearing on June 20, 2013, voted to approve the above-referenced request to construct a 114-foot tall steel telecommunication monopole with 8-foot tall panel antennas and related facilities on a 900 square foot portion of a 3.592-acre parcel situated in the State Land Use Agricultural district and the County's Agricultural 5-acre (A-5a) zoning district. The property is located at 87-3070 Māmalahoa Highway, which is on the east side of Māmalahoa Highway, approximately 1,900 feet north of the intersection of Māmalahoa Highway and Kukuiope'e Place, Kukuiope'e 1<sup>st</sup>, South Kona, Hawai'i.

Approval of this request is based on the following:

The applicant, Celco Partnership dba Verizon Wireless, is requesting a Use Permit to construct a 114-foot tall steel monopole with twelve (12) 8-foot panel antennas mounted on top of the monopole, which will within a 900 square-foot portion of a 3.592-acre parcel. The monopole would be designed to also accommodate the placement of two (2) other carriers (co-location). In addition to the monopole, the 900-square foot (30' x 30') leased area would be used for accessory ground facilities, which includes six (6) radio and battery equipment cabinets and an outdoor emergency generator. The leased

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area would be fenced with 6-foot high chain link security fencing. The proposed facility would be unmanned, and maintenance and repair activities will be performed by a technician on a periodic basis. The pole will be constructed of structural galvanized steel and built to withstand 100 mph wind. The applicant will comply with all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) rules. Additionally, the monopole will not interfere with the County's public safety radio.

The objective of this site is to provide infrastructure necessary for wireless coverage throughout the extended Captain Cook section of the west side of the County and in particular the much traveled Mamalahoa Highway (Hawai'i Belt Road). Currently, there is no or poor coverage in this area and the proposed new facility will allow for Verizon to better serve the residents and frequent drivers who pass thru this part of the island.

As a result of consultation with the Hawai'i Island Burial Council and the Department of Land and Natural Resources-State Historic Preservation Division, the applicant has revised its previously submitted tower plans to reflect a stealth "monopine tree" tower design. The HIBC agreed that the disguising of the pole as a tree would adequately mitigate any potential visual effects and DLNR-SHPD agreed that this undertaking would result in no adverse effect to historic properties.

Telecommunication towers and antennas previously required a Special Permit to operate within the State Land Use Agricultural District. In 2007, the State Legislature adopted Act 171 to allow the construction and operation of wireless communication antennas and towers as permitted uses within the State Land Use Agricultural District. In 2010, the Hawai'i County Council approved Ordinance No. 10-17 to require a Use Permit for telecommunication antennas and towers in the County's Agricultural zoned district. As the applicant is proposing to construct a new tower in the County's Agricultural (A-1a) zoned district, a Use Permit is required.

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 request 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 allows for telecommunication antennas and towers to be a permitted use within the County's Agricultural 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 Extensive Agriculture, which are lands not classified as Important Agricultural Land and includes lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. Other less intensive agricultural uses such as grazing and pasture may be included in the Extensive Agriculture category. The request is not contrary to the General Plan designation as it will only be utilizing a small portion of a larger property that will benefit the general public in the area and those that travel along the highway with enhanced cellular service. The request is also consistent with the Public Utilities element of the General Plan.

The telephone is an essential means of voice communication for the majority of residents in Hawai'i County. However, over the last decade, the County has seen acceleration in the development of telecommunication technology and a transformation of the telecommunications industry. In addition to traditional phone communication, the telecommunications industry now includes technologies such as wireless cellular and digital mobile phones, the internet and World Wide Web.

During the last decade, wireless telecommunications has experienced a dramatic decrease in cost and a phenomenal increase in availability. Changes in technology and competition in the industry have made wireless communication more affordable to the general public.

Advances in telecommunications are not without cost or concerns. One such concern is the construction and location of telecommunication towers. Telecommunication towers are the physical structures to which antennas are attached to facilitate wireless communication. Because of the need for a clear line-of-site, telecommunication towers are usually located in areas with minimum obstructions between the tower and its area of service. Line-of-site refers to the imaginary line between a mobile phone antenna and a telecommunication tower. If there are impediments between the mobile phone antenna and the telecommunication tower, there may be signal degradation or signal loss. For example, the loss of line-of-sight occurs when a person uses a mobile phone while driving through a tunnel. Most often, communication is lost or unclear. The line-of-sight requirement often necessitates the conspicuous location of many telecommunication towers. Consequently, the telecommunications tower is usually taller than the surrounding structures or vegetation and may negatively impact the scenic nature of a given area.

A standard in the Public Utilities element of the General Plan states that in the development and placement of telephone facilities, such as lines, telecommunications and cellular towers, poles, and substations, the design of the facilities shall consider the existing environment, and scenic view and vistas shall be considered and preserved where possible. The tower site is located on a small portion of a 3.592-acre property near a row of trees to help minimize any negative visual impacts to the surrounding properties and Mamalahoa Highway. There is significant public benefit to be gained by the installation of the proposed telecommunication tower for the residents in this area and for those traveling along this stretch of the Mamalahoa Highway. Therefore, approval of this request will not run contrary to the goals, policies and standards of the General Plan.

Based on the above, the request is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General 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 a 900 square-foot portion of a 3.592-acre property. The property is mainly vacant of uses but does have an existing single-family dwelling. The surrounding properties are similarly zoned A-5a and consist of vacant properties and scattered dwellings. The nearest dwellings are located over 400 feet from the project site. The property abuts Mamalahoa Highway to the west.

The Commission has received concerns about visual impacts from surrounding property owners. With the applicant's efforts to address the concerns of the Hawai'i Island Burial Council, the applicant amended its proposal to provide a stealth "monopine tree" in lieu of the original tower. The stealth "monopine tree" design should reasonably mitigate the visual concerns expressed by the surrounding property owners.

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.** 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 and telephone services are required for the use and they are already available to the property. Access to the property will be from Mamalahoa Highway (Highway 11), which is a State owned and maintained roadway with an approximately 20-foot wide paved roadway within a 60-foot right-of-way. As traffic is anticipated to be minimal, the access to the site on the property is adequate. Fire and police services are available to the project area in Captain Cook. Finally, the applicant will meet all applicable agency requirements, including the Federal Communications Commission and the Federal Aviation Administration.

**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 approximately one mile 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.

After reviewing the applicant's request, the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) requested that an Archaeological Inventory Survey (AIS) be conducted of the project site based on information that a previously AIS was performed on the neighboring parcel (TMK: 8-7-010:009) and multiple significant historic properties were recorded, including burials. The applicant submitted a historic properties assessment report that indicated that there are no archaeological sites located within the area of direct effects. The

applicant consulted with the Hawai'i Island Burial Council (HIBC) at the February 21, 2013 meeting at which time it was proposed by the applicant that the pole would be disguised as a pine tree in order to minimize any potential adverse visual effect on the nearby burial sites. The HIBC agreed that the disguising of the pole as a tree would adequately mitigate any potential visual effects caused by the undertaking. As a result, DLNR-SHPD agrees that this undertaking will result in no adverse effect to historic properties.

Lastly, this approval is made with the understanding that the Applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above, the request to construct an unmanned, 114-foot monopole, antennas and related improvements is hereby approved by the Leeward Planning Commission. Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all 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 and any fencing associated with the use. Landscaping shall also be indicated on the plans along the perimeter of the 900 square-foot project site for the purpose of reasonably concealing the ground facilities from adjacent properties and the highway. The antenna plans shall be stamped by a structural engineer.
3. The tower shall be constructed as represented in the revised tower design plans as a stealth "monopine tree" tower as indicated in Planning Department Exhibit 2.

4. Co-location or any expansion of the tower and related facilities within the project site may be allowed within the parameters of the tower height and envelope as approved by the Planning Commission.
5. Within 120 days of the permanent abandonment of the tower, the applicant shall remove the tower and its antenna and accessory structures (including the equipment building and the fence), down to, but not including, the concrete foundation. The applicant 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.
6. 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.
7. The applicant shall 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.
8. 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).

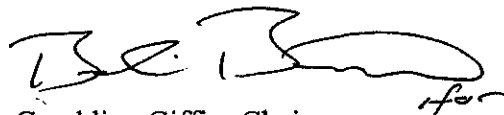
Mr. Les Young  
Page 8

Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke 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.

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

Sincerely,

A handwritten signature in black ink, appearing to read "G. Giffin", with a stylized flourish at the end.

Geraldine Giffin, Chairman  
Leeward Planning Commission

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cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Kona  
Planning Department - Kona  
Mr. Gilbert Bailado