



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

DEC 13 2011

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

Dear Mr. Young:

Use Permit Application (USE 11-000031)

Applicant: Cellco Partnership dba Verizon Wireless

Request: To Allow the Construction of a 154-Foot Monopole and Related
Improvements on a 1,000-Square Foot Portion of a 2,396 Acre Property

Tax Map Key: 8-8-001:003

The Leeward Planning Commission, at its duly held public hearing on November 17, 2011, voted to approve the above-referenced request to construct a 150-foot tall, self-supported steel telecommunication monopole with twelve 8-foot tall panel antennas and related facilities on an approximately 1,000 square foot portion of a 2,396-acre parcel situated in the State Land Use Agricultural District and the County's Agricultural 5-acre (A-5a) zoned district. The property is located approximately 3,500 feet east (mauka) of Hawai'i Belt Road in the vicinity of mile marker 90, 'Alikā ahupua'a, South Kona, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting to construct a telecommunication facility consisting of a 150-foot tall self-supported tower with twelve (12) eight-foot tall panel antennas, six (6) radio and battery equipment cabinets, and an outdoor emergency generator within an approximately 1,000-square foot compound surrounded by 6-foot high chain link security fencing. The generator will allow for continued operations during power outages which is critical for safety in times of emergency. The facility will be unmanned, and maintenance and repair activities will be performed by a technician on a periodic basis. The tower will be unlit and constructed of structural galvanized steel built to withstand 100 mph wind. It will be designed to accommodate antennas and equipment for up to

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three (3) additional wireless carriers. 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 system.

The objective of this site is to provide infrastructure necessary for wireless coverage throughout the greater Captain Cook community and in particular the much traveled Māmalahoa Highway (Hawai'i Belt Road). Currently there is no coverage or inconsistent coverage in this area and the proposed facility will allow Verizon to better serve the residents and frequent drivers who pass thru this part of the island. The applicant has submitted a concurrent request for another cell tower facility approximately 6 miles to the north near Kukuiope.

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 Important Agricultural Land, which is land with a better potential for sustained high agricultural yields because of soil type, climate, topography, or other factors. 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. 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-sight, telecommunication towers are usually located in areas with minimum obstructions between the tower and its area of service. Line-of-sight 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 property is approximately 2,396 acres in size and located 3,500 feet mauka of Hawai'i Belt Road. The 1,000-square foot project site is located at the 2,355 foot elevation level near the abandoned 'Ōhi'a Mill site, and next to an existing 150-foot telecommunication tower owned by the County of Hawai'i. The project site is grassy and relatively flat, but the surrounding area is heavily wooded and provides a screen of the proposed tower and related improvements from the highway and surrounding properties. 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 Māmalahoa Highway. Therefore, approval of this 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 1,000-square foot project site is located in the western portion of a 2,396-acre property and is situated over 3,500 feet mauka of Hawai'i Belt Road. A 150-foot tall telecommunication tower, owned by the County of Hawai'i, is located across the access road near the site. Surrounding properties are similarly zoned A-5a and consist of vacant properties and forest reserve. Establishment of the proposed use on the property is not expected to adversely affect surrounding properties or change the character of the area due to the isolated location of the project site and existing heavy woods that screen the property from surrounding properties and the highway.

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 proposed use will not unreasonably burden public agencies to provide roads, sewers, water, drainage systems, school improvements, and police, fire and medical services. Only electrical and telephone services are required for the use and they are already available to the property. Access from Hawai'i Belt Road to the project site will be via a partially paved and dirt roadway known as Yee Hop Ranch Road. As traffic is anticipated to be minimal, access to the project site is adequate. 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 over two 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. Additionally, there is no record of a designated public access to the shoreline or mountain areas that traverses the property.

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, 150-foot tall self-supported telecommunication tower, antennas and related improvements is 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. The antenna plans shall be stamped by a structural engineer.
3. Collocation 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.
4. 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.

5. 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-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.
6. The applicant, successors or assigns 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.
7. 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 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.

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

Sincerely,

A handwritten signature in cursive script, reading "Geraldine Giffin".

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
Plan Approval Section
DLNR-HPD