



## County of Hawai'i

### WINDWARD PLANNING COMMISSION

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AUG 16 2012

Mr. Steven Sung  
Cascadia PM, LLC  
1130 N. Nimitz Highway, Suite A-200  
Honolulu, HI 96817

Dear Mr. Sung:

Use Permit Application (USE 12-000033)

Applicant: Verizon Wireless

Request: To Allow the Installation of a 124-Foot Tall Telecommunication Monopole and Accessory Uses on a 750-Square Foot Portion of a 5.371-Acre Property Situated Within The County's Agricultural (A-10a) Zoned District

Tax Map Key: 1-4-091:004

The Windward Planning Commission, at its duly held public hearing on August 2, 2012, voted to approve the above-referenced request to construct a 124-foot tall steel telecommunication monopole with 8-foot tall panel antennas and related facilities on an approximate 750 square-foot portion of a 5.371-acre parcel situated in the State Land Use Agricultural District and the County's Agricultural 10-acre (A-10a) zoned district. The property is located at 14-4970 Kaimu-Kapoho Road, which is on the west side of Kaimu-Kapoho Road, approximately 600 feet south of its intersection with Moani Road in Kapoho, Puna, Hawai'i.

Approval of this request is based on the following:

Verizon Wireless is requesting a Use Permit to construct a 124-foot tall steel monopole with twelve (12) 8-foot panel antennas mounted on top of the monopole. The monopole would be designed to also accommodate the placement of two (2) or more carriers (co-location). In addition to the monopole, the 750-square foot (25' x 30') leased area would be used for accessory ground facilities, which includes radio and battery equipment cabinets and an outdoor emergency generator. The leased 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

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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 system.

The objective of this site is to provide infrastructure necessary for wireless coverage throughout Kapoho Beach area as well as travelers along Kaimu-Kapoho Road. According to the applicant, there is currently spotty, or no coverage along Kaimu-Kapoho Road from Makaukiu Point east to Kapoho Bay and south to Pohoiki. The installation of this proposed new facility will allow for Verizon Wireless Services as well as the co-location of up to two (2) more additional wireless service providers. The facility will "hand off" wireless signals to the existing facilities in Pahoa

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. These include 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. Telecommunication facilities may be allowed in this area with the approval of a Use Permit from the Planning Commission.

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 telecommunication tower is usually much 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 5.371-acre property. There is significant public benefit to be gained by the installation of the proposed telecommunication tower for the residents in this area. Therefore, approval of this request will not run contrary to the goals, policies and standards of the General Plan.

Lastly, the Puna Community Development Plan (CDP) was adopted by the Hawai'i County Council on September 10, 2008. The request is consistent with Action 3.4.3.(e) under the Public Safety and Sanitation Services section in the plan, which states "Encourage 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 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 750 square-foot portion of a 5.371-acre property. The property is being used for as an orchid farm. There are several farm structures constructed on the property. The immediate surrounding properties are similarly zoned A-10a and consist of farms and vacant land. The properties to the east (makai) across Kaimu Kapoho Road are zoned A-1a and consist of scattered dwellings, farms and vacant land. Further east is the Kapoho Beach Lots Subdivision.

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 Kaimu-Kapoho Road, which is a County owned and maintained road with an approximately 20-foot pavement within an 80-foot right-of-way. There is a locked gate onto a private subdivision road, which consists of a dirt road within a 20-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 Pahoā. Finally, the applicant will be required to 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.

The property is currently developed with an orchid farm. The Department of Land and Natural Resources-State Historic Preservation Division issued a "no-effect" letter dated June 15, 2012 with a determination that no historic properties will be affected by this undertaking. A condition of approval has been added requiring the applicant to immediately cease work and to notify DLNR-SHPD if they encounter a lava tube or other archaeological feature in the course of constructing the tower.

**The proposed request will not have a significant adverse impact to traditional and customary Hawaiian Rights.** In view of the Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: No formal archaeological reconnaissance survey, oral history of kamaaina accounts of the area, historical survey of documentary records, botanical and/or fauna study was submitted.

The valuable cultural, historical, and natural resources found in the permit area:  
As the property has been cleared, landscaped and developed with an orchid farm, an archaeological inventory survey of the site was not conducted. The Department of Land and Natural Resources-State Historic Preservation Division issued a “no-effect” letter dated June 15, 2012 with a determination that no historic properties will be affected by this undertaking.

Possible adverse effect or impairment of valued resources: The property does not abut the shoreline, therefore Hawaiian gathering and fishing rights is not an issue.

Feasible actions to protect native Hawaiian rights. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights and no action is necessary to protect these rights. A condition of approval will be included to require the applicant to notify the DLNR-SHPD should any unidentified sites or remains be encountered, and proceed only upon an archaeological clearance from the DLNR-SHPD.

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 properties. 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, 124-foot monopole, antennas and related improvements is approved by the Windward 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 750 square-foot project site for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. The antenna plans shall be stamped by a structural engineer.

3. 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.
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-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 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.

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- 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.

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

Sincerely,



Zendo Kern, Chairman  
Windward Planning Commission

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cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
DLNR-HPD  
Mr. Gilbert Bailado ✓