

County of Hawai'i

WINDWARD PLANNING COMMISSION

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

DEC 15 2015

Mr. William Keoni Fox
Ali'i Wireless Specialists, LLC
45-955 Kamehameha Highway, Suite 308
Kāne'ohe, HI 96744

Dear Mr. Fox:

SUBJECT: Use Permit No. USE 15-000057
Applicant: CCTMO, LLC
Approved Use: Replacement of an Existing Telecommunications Facility
Including the Construction of a 150-Foot Steel Lattice
Communication Tower and Related Improvements
Tax Map Key: 9-2-062:054

The Windward Planning Commission, at its duly held public hearing on December 3, 2015, voted to approve the above-referenced request to allow for the construction of a new telecommunication facility, including a 150-foot steel lattice tower with 12 panel antennas with remote radio units and microwave dish antennas and related facilities within a 10,000 square-foot portion of a 2-acre parcel situated in the County's Agricultural 1-acre (A-1) zoning district. The project site is situated at the southeast corner of Palm Parkway and Reef Circle Mauka within the Hawaiian Ocean View Estates Subdivision, Ka'ū, Hawai'i.

Approval of this permit 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 new tower and antennas, as proposed by the applicant, 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(f), 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 10,000 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 of antennas upon the existing tower and expansion of related support equipment within the project site may be allowed within the parameters of the tower height as approved by the Planning Commission, provided that ground lease areas of co-locating carriers are adjacent to the existing ground lease area and not located within the open yard setback areas.
4. Within 120 days of the permanent abandonment of the existing, 100-foot telecommunications tower, the applicant shall remove the tower from the subject property. The applicant shall provide immediate written notification to the Planning Director upon completion of such removal.
5. Within 120 days of the permanent abandonment of the new, 150-foot telecommunications tower, the applicant shall remove the tower and its antennas 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. 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. All exterior lighting shall be shielded.
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.

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- 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

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Christian Kay of the Planning Department at 961-8136.

Sincerely,



Myles Miyasato, Chairman
Windward Planning Commission

LCCTMOUSE15-057wpc

Enclosure: PC Findings Report

cc: CCTMO, LLC
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources - HPD
Mr. Gilbert Bailado

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

CCTMO, LLC

USE PERMIT APPLICATION NO. 15-000057 (USE 15-000057)

Based on the following, Use Permit No. 15-000057 is hereby approved by the Planning Commission to allow for the construction of a new telecommunication facility, including a 150-foot tall steel lattice tower with 12 panel antennas with remote radio units and microwave dish antennas and related facilities within a 10,000 square-foot portion of a 2-acre parcel situated in the County's Agricultural 1-acre (A-1a) zoning district.

The affected property is situated at the southeast corner of Palm Parkway and Reef Circle Mauka within the Hawaiian Ocean View Estates Subdivision, Ka'ū, Hawai'i, TMK: 9-2-062:054.

CCTMO, LLC is requesting a Use Permit to allow for the replacement of an existing 100-foot tall steel lattice tower with a new, 150-foot tall steel lattice tower with 12 panel antennas with remote radio units and microwave dish antennas and related facilities within a 10,000 square foot portion of the subject property. Related facilities include existing radio and battery equipment cabinets and an outdoor emergency generators on crushed lava cinder base and surrounded by a six foot tall security fence with an entry gate. The proposed facility would be unmanned, and maintenance and repair activities will be performed by a technician on a periodic basis. The new, three legged lattice tower will be constructed of structural galvanized steel with reinforced concrete footing extending 20 feet deep 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 new tower will not interfere with the County's public safety radio system.

The purpose of the proposed tower replacement is to allow for both additional height and stronger infrastructure to better serve the community. The additional height will increase the coverage area, improve service quality, support newer antenna technology to provide 4G broadband speeds, and allow for a better hand off to existing facilities in Honomalino, Kahuku Ranch, and Ka Lae (South Point). In addition, the existing tower is over 10 years old and the new tower will be structurally stronger than the existing tower.

Telecommunication towers and antennas previously required a Special Permit to operate within the State Land Use Agricultural District. An existing Special Permit (SPP N0. 1225) was granted on November 6, 2003 for the current 100-foot Steel Lattice Tower and associated improvements. 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 remove the existing tower and construct a new tower in the County's Agricultural (A-1a) zoned district, a Use Permit is required. The landowner has requested a revocation of Special Permit No. 1225 if and when the subject Use Permit is granted.

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 zoning 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 (EA), 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. 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, which 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 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 10,000 square-foot portion of the 2-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.

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 subject property is two (2) acres in size and square in shape. The 10,000 square foot project area consists of an existing, 100-foot tall steel lattice tower, radio equipment cabinets, equipment shelters, and emergency generators on a crushed lava cinder base and bounded by a 6 foot tall security fence with an entry gate. The remainder of the property is undeveloped.

All of the parcels in Hawai'i Ocean View Estates (HOVE) are similarly zoned Agriculture-1 acre (A-1a). The parcels immediately surrounding the subject property are vacant, however there are scattered residences in the area with the nearest dwelling approximately 400 feet to the north of the subject property.

To help mitigate possible visual impacts in the immediate area, a condition of plan approval will be to maintain and/or place landscaping along the northeast and northwest corners of the subject property where the tower will be located. If there is landscaping in place, the

applicant will just be required to identify the landscaping on the site plan and make sure it is maintained in place. If landscaping is not in place, the applicant will need to identify the new landscaping in that area on the site plan, and install and maintain the new landscaping.

As the applicant is requesting to replace an existing telecommunications tower with a new one, a condition of this approval will require the applicant to remove the existing tower 120 days of abandonment of the tower. According to the applicant, existing antennas will be moved to the new tower. A similar condition will require the applicant to remove the new tower, antennas, and accessory structures when the new tower is abandoned.

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.

Therefore, based on the above, 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 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. There are two access points to the project area via Palm Parkway and Reef Circle Mauka, which are 2-lane, private roads with approximately 22 feet of pavement within a 40-foot right-of-way on Palm Parkway and a 30-foot right-of-way on Reef Circle Mauka. There is crushed lava cinder within the project area which allows for vehicular access through double wide entry gates. As traffic is anticipated to be minimal, the access to the site on the property is adequate. Police services are available from the HOVE Police Substation and the closest Fire services are available via the HOVE Volunteer Fire Station. 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 more than 8.5 miles from 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.

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.