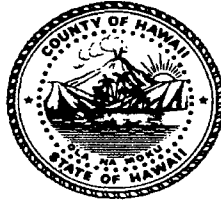


Harry Kim
Mayor



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Gregory Henkel, Chair
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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

FEB - 1 2018

Mr. Steven Sung
Wireless Resources, Inc.
758 Kapahulu Avenue, Suite 1062
Honolulu, HI 96816

Dear Mr. Sung:

SUBJECT: Use Permit No. USE 17-000067
Applicant: Verizon Wireless
Permitted Use: Allowed the Construction of a Telecommunication Facility, Consisting of a 167-Foot Steel Monopine and Related Antennas and Equipment
Tax Map Key: 1-1-082:031

The Windward Planning Commission (WPC), at its duly held public hearing on January 4, 2018 voted to approve the above-referenced request to allow the construction of a new, non-manned telecommunication facility, consisting of a 167-foot tall steel monopole tower and related facilities within a 900-square foot portion of a 1-acre parcel of land situated in the County's Agricultural 1-acre (A-1a) zoning district. The project site is situated northeast of the 'Ōhi'a Avenue – Alapua Street intersection, in the Eden Rock Estates Subdivision, Kea'au, Puna, Hawai'i.

At the WPC hearing, the WPC approved the Use Permit with the provision that the lease area be moved to the back of the property, farther away from the 'Ōhi'a Avenue – Alapua Street intersection due to concerns over the proposed tower's proximity to a neighboring dwelling. Due to the change in the location of the lease area, you will be required to provide additional pre-permitting clearances, including amendment to the Section 106 determination if not the new location is not covered under the original determination, prior to the issuance of Final Plan Approval.

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. The construction and operation of telecommunication facility shall be conducted in a manner that is substantially representative of plans and details as contained within the Use Permit application dated January 13, 2017.
3. Construction of the telecommunication facility 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)(2), 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, proposed access driveways and any fencing associated with the use. The antenna plans shall be stamped by a structural engineer.
4. The applicant shall secure and finalize any building permits for the proposed use required by the Department of Public Works Building Division.
5. As represented by the applicant, a buffer of existing natural vegetation shall remain in place around the perimeter of the lease area, with the exception of the proposed driveway, to mitigate visual impacts of the ground equipment area and to minimize impacts on listed species that may be found on the property. No additional landscaping is required.
6. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used in the permit area and woody vegetation over 15 feet in height shall not be disturbed, trimmed or removed during bat birthing and pup rearing season of June 1st to September 15th without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service (USFWS) if nests are found. Surveys shall be conducted by a qualified biologist.
7. To protect any Hawaiian hawks in the vicinity of the property, ground clearing, grubbing activities and construction shall not occur in the permit area during hawk breeding season of March to September without first conducting surveys for hawk nests and coordinating with USFWS if nests are found. Surveys shall be conducted by a qualified ornithologist.
8. To protect any seabirds (Hawaiian petrels, Newell's shearwaters and band-rumped storm petrel) in the vicinity of the property, any lighting shall be fully shielded so that the bulb can only be seen from below bulb height. The lights shall be turned off when human activity is not occurring in the lighted area.

9. Prior to cutting or removal of vegetation from the property, the applicant shall provide a botanical survey, conducted by a qualified biologist, to the Planning Department for review and approval in consultation with the U.S. Fish and Wildlife Service. The Planning Department shall determine appropriate mitigation measures, if warranted, to minimize impacts listed species based on the outcome of the survey. The survey shall attempt to locate yellow-faced bee (*Hylaeus*) nests, plants in the *Sida* genus (ilima), a rare species of fern (*Adenophorus periens*), an endangered mint (*Phyllostegia vestita*) and any other listed plants that may occur in the general area. The survey shall include the disturbed area and extend 200 feet beyond the area of vegetation disturbance and shall be conducted as recommended by the USFWS in their memo dated March 6, 2017.
10. The applicant shall implement the avoidance and minimization measures in the USFWS memo dated March 6, 2017 related to Rapid 'Ōhi'a Death.
11. 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.
12. 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.
13. 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.
14. Comply with all applicable rules, regulations and requirements of the affected agencies for the proposed development, including the United States Fish and Wildlife Service, Federal Aviation Administration and Federal Communications Commission.

15. 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).

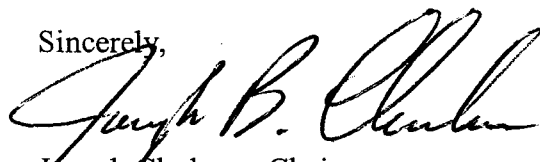
Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.

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

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

Should you have any questions, please contact Maija Jackson of the Planning Department at 961-8159.

Sincerely,



Joseph Clarkson, Chairman
Windward Planning Commission

L:\Verizonwireless\USE17-067\wpc
Enclosure: PC Findings Report

Mr. Steven Sung
Wireless Resources, Inc.
Page 5

cc: Verizon Wireless
Lloyd and Evelyn Maynard
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
Department of Land & Natural Resources - HPD
US Fish and Wildlife Service (USFWS)
GIS Section

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

VERIZON WIRELESS
USE PERMIT APPLICATION NO. USE 17-000067 (USE 17-067)

Based on the following findings, Use Permit No. 17-067 is hereby issued to Use Permit to allow the construction of a new, non-manned telecommunication facility, consisting a 167-foot tall steel monopole tower and related facilities within a 900 square-foot portion of a 1-acre parcel of land be approved by the Planning Commission. The property is located in the northeast of the ‘Ōhi‘a Avenue - Alapua Street intersection, in the Eden Roc Estates Subdivision, Kea‘au, Puna, Hawai‘i, TMK: (3) 1-1-082:031.

The applicant, Verizon Wireless, is requesting a Use Permit to allow the construction of a new, non-manned telecommunication facility, consisting of a 167-foot tall, galvanized steel tower designed to emulate the appearance of a pine tree, with twelve (12) panel antennas, twelve (12) remote radio head units and their twelve (12) A2 modules, and three (3) surge protectors. In addition to the monopine tower, a 900-square foot (30’x 30’) leased area will be used for accessory ground facilities, which include outdoor radio and battery equipment cabinets, an outdoor emergency generator, three (3) surge protectors, and one (1) GPS antenna. The leased area will be surrounded with 8-foot high chain link security fencing with locked gates. The monopine will be constructed to withstand 105 mph wind loads. The proposed facility would be non-manned and maintenance and repair activities will be performed by a technician on a periodic basis. The tower will not have a light on it but there will be work lighting installed within the ground equipment area to provide nighttime visibility should technicians need to be at the site at night for repairs or maintenance. This work light will not be on at all times. According to the applicant, the telecommunications tower will not interfere with the County’s public safety radio system and the facility will be designed to accommodate other carriers (co-location). Finally, the applicant will comply with all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) rules. According to the applicant, Verizon Wireless is seeking to provide its wireless coverage within Eden Roc Estates, Fern Acres and parts of the Fern Forest Subdivisions. The tower will also provide some coverage along the Volcano Highway between Glenwood and Mountain View.

Please note, at the January 4, 2018 Windward Planning Commission (WPC) Hearing, the WPC voted to approve the Use Permit with the provision that the lease area be moved to the back of the property, farther away from the ‘Ōhi‘a Avenue - Alapua Street intersection due to concerns over the proposed tower’s proximity to a neighboring dwelling.

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) zoning 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 Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component, including the Orchidland Estates, 'Āinaloa, and Hawaiian Paradise Park subdivisions. Typical lot sizes vary from 9,000-square feet to two acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. 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, and the internet. 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 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. Action 3.4.3(e) of the Puna Community Development Plan (CDP) encourages the enhancement of cell phone service to expand coverage to more remote areas. The telecommunication facility will be located on a small portion of a 1-acre property in the Eden Roc Estates Subdivision, which is forested with scattered farm dwellings throughout. The General Plan identifies views of Mauna Kea and Mauna Loa from various Puna subdivisions as an example of natural beauty in the Puna district. The subject property and surrounding properties within the subdivision are heavily vegetated with tall 'ōhi'a and not-native trees which blocks views of these mountains. Additionally, the proposed telecommunication tower will be designed to look like a pine tree which will lessen any adverse visual impacts on surrounding properties. Only the lease area and a driveway will be cleared of vegetation to accommodate the facility. The remainder of the property will remain vegetated at this time.

Both the General Plan and Puna Community Development Plan discuss the importance of protecting native species in order to maintain an ecological balance for the well-being of the island. A formal flora or fauna survey was not submitted with the application. The property is vegetated with ferns, grass and 'ōhi'a trees ranging in height from 20-40 feet tall. There is no federally designated critical habitat in the proposed project area. The proposed use will require that an approximately 900-square foot lease area and 12-foot wide by 50-foot long driveway will be cleared on the property. The applicant is not proposing planting new vegetation as landscaping because the site already includes wild ferns and trees to aid in reducing adverse visual impacts. According to the US Fish and Wildlife Service (USFWS), there are five listed animals in the vicinity of the project area, which include the endangered Hawaiian hoary bat, Hawaiian hawk, Hawaiian petrel, band-rumped storm-petrel, and the Newell's shearwater

may transit the project area flying to upland breeding colonies. There is also one endangered insect, the yellow-faced bee. Critical habitat for a rare species of fern is found nearby in the Puna Forest Reserve and an endangered mint may also be found within the area. In their memo dated March 6, 2017, the USFWS recommended several measures to avoid or minimize project impact to these species that the Planning Director agrees should be implemented. Thus, to avoid possible impacts on the listed species, the applicant will be required to implement mitigation measures, as recommended by the USFWS, as conditions of this permit. 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 of Hawai'i 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. Surrounding properties within the Eden Rock Estates Subdivision are similarly zoned A-1a and are developed with farm dwellings. The closest dwelling is located about 150 feet to the west of the project site, across 'Ōhi'a Avenue.

The proposed facility will be located on a 900-square foot portion in the southwest corner of a one acre property. The parcel is currently vacant of any structures and is overgrown with native and non-native vegetation. A 12-foot wide driveway will extend off of 'Ōhi'a Avenue to the lease area. According to the applicant, only the lease area and a driveway will be cleared of vegetation to accommodate the facility. The remainder of the property will remain vegetated at this time. To reduce visual impacts on surrounding properties a condition of approval will require that a buffer of existing natural vegetation will remain in place around the perimeter of the lease area, with the exception of the proposed driveway. Also, the proposed telecommunication tower will be designed to look like a pine tree which will lessen any adverse visual impacts on surrounding properties. With implementation of these measures, it is unlikely that there will be a significant adverse impact to the community's character or to surrounding properties.

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. Only electrical and telephone services are required for the proposed use and those utilities will be supplied via underground lines into the lease area. Access to the subject property from 'Ōhi'a Avenue is sufficient since this is a non-manned facility that will generate very little traffic. Water and wastewater disposal are not required for the proposed use and fire and police services are available from stations in Volcano and Kea'au. 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 12 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. In a letter dated July 7, 2015, the Department of Land and Natural Resources-State Historic Preservation Division (SHPD) determined that no historic properties will be affected by the proposed use with the stipulation that the tower be disguised as a tree in order to mitigate potential visual effects on any unidentified historic properties 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 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.