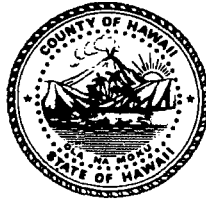


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## County of Hawai'i

### WINDWARD PLANNING COMMISSION

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

MAY 20 2019

Ms. Danette Martin  
General Dynamics  
76-6357 Kololia Street  
Kailua-Kona, HI 96740

Dear Ms. Martin:

**SUBJECT; Use Permit No. USE 19-000079**  
**Applicant: Celco Partnership dba Verizon Wireless**  
**Permitted Use: Allows a 155-Foot Tall, Non-Manned Monopine**  
**Telecommunication Facility**  
**Tax Map Key: 1-2-007:081**

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The Windward Planning Commission, at its duly held public hearing on May 2, 2019, considered the above-referenced request to allow the construction of a non-manned telecommunication facility consisting of a 155-foot tall monopine pole and auxiliary equipment within a 900-square foot portion of a 3-acre parcel of land. The property is located on the north (mauka) side of Pāhoa-Kalapana Road (Highway 130) about 1.2 miles south of Black Sand Beach subdivision, Kīkala-Kēōkea Homesteads, Puna, 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. Prior to submittal of an application for Plan Approval, the applicant, successors or assigns shall provide evidence of legal access from Highway 130 to the subject parcel.

MAY 20 2019

3. Construction of the monopine and related facilities 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 Sections 25-2-71, 25-2-72, 25-2-73, 25-2-74 and 25-4-12, Chapter 25 (Zoning Code), Hawai'i County Code. The monopine tower shall be located a minimum of 155 feet from the roadway edge of Highway 130, as shown in the applicant's plan titled "H13 Kalapana 155' Setback From Road Edge", submitted on April 29, 2019. Plans shall identify proposed structures, fire protection measures, access easements, fencing and related facilities associated with the use. The plans shall identify existing landscaping and new landscaping in the areas that do not currently have landscaping in place. The antenna plans shall be stamped by a current, valid and in-good standing Hawai'i-licensed structural engineer and/or electrical engineer, as required. Best Management Practices shall be implemented.
4. 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.
5. 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 1st to September 30<sup>th</sup> without first conducting surveys for hawk nests and coordinating with USFWS if nests are found. Surveys shall be conducted by a qualified ornithologist and are only valid for 14 days. Ground clearing or construction shall not occur within 1,600 feet of any active Hawaiian hawk nest during the breeding season. Regardless of the time of year, trimming or cutting trees containing a hawk nest is prohibited.
6. 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.

7. To prevent the spread of Rapid 'Ōhi'a Death, a survey of the proposed site shall be conducted two weeks prior to any tree cutting to determine if there are any infected 'ōhi'a trees. If infected 'ōhi'a are suspected at the site, the applicant shall contact the appropriate agencies at UH-Hilo and USDA for further guidance. If 'ōhi'a trees will be cut during construction, the applicant shall follow procedures as described in the comments letter from US Fish and Wildlife Service, dated March 25, 2019.
8. To prevent the spread of harmful invasive species, the applicant shall follow biosecurity protocols as described in the comments letter from US Fish and Wildlife Service, dated March 25, 2019.
9. All development runoff shall be disposed of on site and shall not be direct toward any adjacent properties.
10. All exterior lighting shall be shielded, unless complying with the Federal Aviation Administration and/or the Federal Communications Commission rules and regulations for lighting and marking.
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. In the unlikely event that any surface or subsurface historic properties and/or resources, such as lava tube openings, concentrations of artifacts, structural remains or human skeletal remains are found during construction activities, the

applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD.

14. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including but not limited to, the Federal Aviation Administration and the 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.

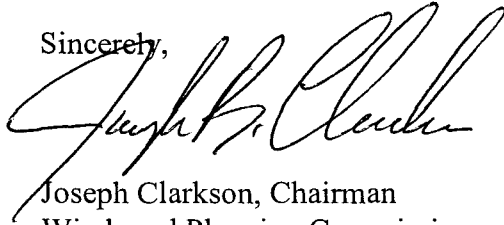
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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

Ms. Danette Martin  
General Dynamics  
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Should you have any questions, please contact Jeff Darrow of the Planning Department at 961-8158.

Sincerely,



Joseph Clarkson, Chairman  
Windward Planning Commission

LCellcoUSE19-079wpc

Enclosure: PC Findings

cc: Cellco Partnership dba Verizon Wireless  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
US Fish and Wildlife Service  
State DLNR-HPD  
Plan Approval Section  
GIS Section

**COUNTY OF HAWAI'I**  
**PLANNING COMMISSION FINDINGS**

**CELLCO PARTNERSHIP DBA VERIZON WIRELESS**  
**USE PERMIT APPLICATION (USE 19-000079)**

Based on the following findings, Use Permit No. 19-000079 is hereby approved to allow the construction of a non-manned telecommunication facility consisting of a 155-foot tall monopine pole and auxiliary equipment within a 900 square-foot portion of a 3-acre parcel of land situated in the County's Agricultural 3-acre (A-3a) zoning district. The property is located on the north (mauka) side of Pāhoa-Kalapana Road (Highway 130) about 1.2 miles south of Black Sand Beach subdivision, Kīkala-Kēōkea Homesteads, Puna, Hawai'i, TMK: (3) 1-2-007:081 por.

The applicant, Cellco Partnership dba Verizon Wireless, is requesting a Use Permit to construct a 155-foot tall steel monopine with twelve (12) panel antennas within a 900 square foot portion of a three-acre parcel situated in the County's Agricultural 3-acre (A-3a) zoning district. The subject property is located on the north (mauka) side of Pāhoa-Kalapana Road (Highway 130) about 1.2 miles south of Black Sand Beach subdivision, Kīkala-Kēōkea Homesteads, Puna, Hawai'i, TMK: (3) 1-2-007:081 por. A monopine is a monopole and antennae disguised with branches to resemble a pine tree. The facility would be designed to accommodate at least two (2) other wireless service providers (co-location). In addition to the monopine, the 900 square-foot area would be used for accessory ground facilities, which include outdoor equipment cabinets and a diesel emergency generator, and a retaining wall on a concrete slab. The leased area will be enclosed with a six-foot high chain link security fence with locked gates. The pole will be constructed of structural galvanized steel and built to withstand 100 mph wind load. The proposed facility would be unmanned, and maintenance and repair activities will be performed by a technician on a periodic basis. 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.

According to the applicant, most of the surrounding residents in Sea View Estates and Black Sands Beach subdivision currently do not have wireless coverage. During the recent lava eruption of 2018, the County's Civil Defense contacted Verizon Wireless to request that the coverage area be expanded to include Sea View Estates so that residents could be alerted on their wireless devices if evacuations were necessary. The objective of this project is to allow Verizon to expand wireless telephone and E911 services by providing coverage to the Sea View Estates and Black Sands Beach subdivision. According to the applicant, the service expansion is critical to Verizon Wireless to balance the financial cost of a new site in the coverage area requested by Hawai'i County Civil Defense. Additionally, the applicant states that the tower height of 155 feet is necessary to allow the project to meet the coverage objective, due to surrounding topography and tall trees.

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-3a) 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 designations for this property is Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. 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. The Rural designation does not necessarily mean that these areas should be further subdivided to smaller lots. Most lack the infrastructure necessary to allow further subdivision. 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-sight, 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 small portion of a 3-acre parcel. 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.

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, the County General Plan, and the Puna CDP.

**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 within a 900 square-foot portion of a 3-acre parcel of land. The property is currently vacant and undeveloped. The surrounding properties are similarly zoned A-la and consist of scattered dwellings, agricultural uses and vacant land. The adjacent properties each contain a single-family dwelling.

In order to mitigate possible visual impacts, the monopine facility will emulate the appearance of a pine tree with the monopole and antennae disguised with branches to resemble a pine tree. According to the applicant, the only source of emitted noise may be from an air conditioner necessary to maintain the correct temperature and humidity in the equipment cabinets and a generator to be operated during emergencies and routine maintenance. The air emissions will meet federal guidelines. According to the applicant, no notable mauka or makai scenic views or vistas would be blocked by the project.

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 available to the property. Access to the property will be off Old Kalapana Road, a paved, public road, on the south side of the property. 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 nearby Pāhoa. The Telecommunications Act of 1996, Section 704, which amended portions of the 1934 Act, limits the state or local authorities from regulating the placement, construction and modification of personal wireless service facilities on basis of environmental effects of radio frequency emissions, as long as such facilities towers comply with the FCC's regulations concerning such emissions. 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 and a half (1 1/2) miles from the nearest coastline 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.

Based on the above, it is recommended that the request to construct an unmanned, 155-foot monopine telecommunications facility, antennas and related improvements be approved by the Planning Commission.