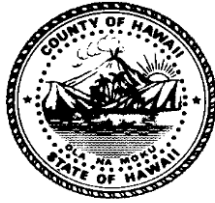


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County of Hawai'i

LEEWARD PLANNING COMMISSION

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

Shamaury Myrick
Tower Engineering Professionals
10700 Sikes Place, Suite 360
Charlotte NC 28277

Dear Mr. Shamaury Myrick:

SUBJECT; Use Permit No. 20-000083 (USE 20-000083)
Applicant: SBA Towers V LLC
Permitted Use: Allows the Replacement of an Existing, 326-foot Telecommunications Tower with a New, 260-foot Telecommunications Tower and Related Equipment and Improvements on a 2,025 Square Foot Portion of a 3.585-acre parcel
Tax Map Key: (3) 8-1-001:026 (por)

The Leeward Planning Commission, at its duly held public hearing on September 21, 2020 considered the above-referenced request to allow the replacement of an existing 326-foot tall telecommunications tower with a new, non-manned telecommunication facility consisting of a 260-foot tall, self-supporting steel lattice tower with related equipment and improvements within a 2,025-square foot portion of a 3.585-acre property situated in the County's Agricultural-5 acre (A-5a) zoning district. The subject property is located at 81-1106 Nani Kupuna Place, approximately 1,165 feet east (mauka) of Hawai'i Belt Road, Haleki'i-Kalukalu (mauka), South Kona, 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 and operation of the telecommunication facility shall be conducted in a manner that is substantially representative of plans and details as contained within the Use Permit application received July 10, 2020 and representations made to the Leeward Planning Commission.

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)(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 licensed structural engineer.
4. Prior to commencement of operation of the facility, the applicant, successors or assigns shall secure and finalize any building permits for the proposed use required by the Department of Public Works Building Division.
5. Co-location of antennas upon the existing tower and the addition of related support and ground equipment is allowed and encouraged within the parameters of the tower height and ground lease area as approved by the Planning Commission without amendment of this permit or further Plan Approval. Co-location beyond the parameters approved by this permit but that results in less than a 'substantial change' to the tower height and ground lease area, as defined by the Federal Communication Commission, is allowed without amendment of this permit, provided Plan Approval has been issued by the Planning Director for the co-location. Co-location that results in a 'substantial change' to the tower height and ground lease area, as defined by the Federal Communication Commission, requires an amendment of this permit.
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 removed during bat breeding season of June 1 to September 15 without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service if nests are found. Surveys shall be conducted by a qualified biologist.
7. To protect any Hawaiian hawk in the vicinity of the property, clearing, grubbing and construction activities shall not occur in the permit area during hawk breeding season of March 1 to September 30 without first having a qualified biologist conduct surveys for hawk nests in the project footprint and surrounding areas and coordinating with US Fish and Wildlife Service if nests are found. Additionally, no clearing or construction activities shall occur within 1,600 feet of any active Hawaiian hawk nest during the breeding season until the young have fledged. Finally, regardless of the time of year, no trimming or cutting trees containing a hawk nest shall occur, as nests may be re-used during consecutive breeding seasons.
8. To protect any seabirds (Hawaiian petrels and Newell's shearwaters) in the vicinity of the property, the applicant shall install shielded outdoor lights to direct light downwards. Additionally, the applicant shall install automatic motion sensor switches and controls on all outdoor lights or turn off lights when human activity is not occurring in the lighted area. Finally, the applicant shall avoid nighttime construction during the seabird fledging period of September 15 to December 15.
9. To avoid and minimize potential project impacts to the Hawaiian goose (Nene) the applicant shall implement the following applicable measures: Do not approach, feed, or

disturb Nene. If Nene are observed loafing or foraging within the project area during the Nene breeding season (September through April), have a biologist familiar with the nesting behavior of Nene survey for nests in and around the project area prior to the resumption of any work. Repeat surveys after any subsequent delay of work of three or more days (during which the birds may attempt to nest). Cease all work immediately and contact the US Fish and Wildlife Service for further guidance if a nest is discovered within a radius of 150 feet of proposed work, or a previously undiscovered nest is found within said radius after work begins. In areas where Nene are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.

10. To prevent the spread of harmful invasive species, the applicant shall follow biosecurity protocols as determined by US Fish and Wildlife Service.
11. In the unlikely event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g. rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
12. The applicant 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.
13. Within 120 days of the permanent abandonment of the existing, 326-foot tall telecommunications tower, the applicant shall remove the tower, its antennae and accessory structures (including the equipment building and the fence), down to, but not including, the concrete foundation from the subject property. The applicant shall provide immediate written notification to the Planning Director upon completion of such removal.
14. Within 120 days of the permanent abandonment of the new, 260-foot tall tower, the applicant shall remove the tower, its antennae 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.
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 Planning Director may initiate procedures to revoke this 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 Jeff Darrow of the Planning Department at 961-8158.

Sincerely,

Nancy Carr Smith, Chairman
Leeward Planning Commission

LSBATowersUSE20-083lpc
Enclosure: PC Findings

cc: SBA Towers V LLC
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Public Works – Building
United States Fish and Wildlife Service
State DLNR-HPD
State DLNR-SHPD
Plan Approval Section
GIS Section