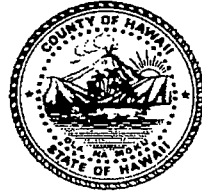


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County of Hawai'i

WINDWARD PLANNING COMMISSION

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

JUN 28 2021

Mr. Andrew Tomlinson
J5 Infrastructure Partners
677 Ala Moana Blvd., Suite 917
Honolulu, HI 96813

Dear Mr. Tomlinson:

SUBJECT: Use Permit Application (USE 21-000087)
Applicant: AT & T Mobility
Approved Use: Construction of a Non-Manned Telecommunication Facility
Consisting of a 105-Foot-Tall Stealth "Monopine" Tower with
Related Equipment
Tax Map Key: 4-4-015:portion of 005

The Windward Planning Commission, at its duly held public hearing on June 3, 2021, voted to approve the above-referenced request for a Use Permit to allow the construction of a non-manned telecommunication facility consisting of a 105-foot tall stealth monopine tower with related equipment within a 616-square foot portion of a 6.875-acre property. The property is the site of Girl Scout's "Camp Kilohana", situated approximately 122 feet south of the 44-mile marker on Saddle Road (Route 200) and directly adjacent to the north of Mauna Kea State Park, Por. Ka'ohe & Pā'auhau, Hāmākua, Hawai'i.

Approval of this Use 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 dated April 16, 2021, and representations made to the Windward Planning Commission.

JUN 29 2021

3. As represented by the applicant, the telecommunication tower and antennas shall be designed to appear as a pine tree in order to reduce visual impacts of the project.
4. 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.
5. Prior to commencement of operation of the facility, the applicant shall secure and finalize any building permits for the proposed use required by the Department of Public Works - Building Division.
6. 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.
7. To protect any Palila birds in the vicinity of the property, tree cover during the peak breeding season between January 1st and June 30th shall not be removed without first conducting surveys for Palila nests within 150 feet of the proposed work and coordinating with US Fish and Wildlife Service (USFWS) if nests are found. Surveys shall be conducted by a qualified biologist. Contractors shall not approach, feed or disturb any Palila found on the subject property.
8. 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 fifteen (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.

9. 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.
10. If any Hawaiian Goose (Nēnē) are present during construction activities, then all activities within 100 feet (30 meters) should cease, and the bird should not be approached. Work may continue after the bird leaves the area of its own accord. Contact DLNR-Division of Forestry and Wildlife if a Nēnē nest is discovered.
11. 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 US Fish and Wildlife Service (USFWS) if nests are found. Surveys shall be conducted by a qualified biologist.
12. To protect the Blackburn's sphinx moth, a qualified biologist familiar with the species shall survey areas of proposed activities for Blackburn's sphinx moth and its larval host plants prior to work initiation. Surveys shall be conducted during the wettest portion of the year (usually November-April or several weeks after a significant rain) and within 4-6 weeks prior to construction. Surveys shall include searches for adults, eggs, larvae, and signs of larval feeding (chewed stems, frass, or leaf damage). If moths, eggs, larvae, or native 'aiea or tree tobacco over 3 feet tall, are found during the survey, the US Fish and Wildlife Service (USFWS) shall be contacted for additional guidance.
13. To prevent the spread of harmful invasive species, the applicant shall follow biosecurity protocols as determined by US Fish and Wildlife Service.
14. In the 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, 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 at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
15. 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. All exterior lighting shall be shielded.

16. 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.
17. 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).
18. 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,

John R. Replogle

John R Replogle (Jul 28, 2021 13:54 HST)

John R. Replogle, Chair
Windward Planning Commission

Mr. Andrew Tomlinson
J5 Infrastructure Partners
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Enclosure: PC Findings Report

cc: Department of Public Works
County Real Property Tax Division
US Fish & Wildlife Service
DLNR-Division of Forestry and Wildlife
GIS Section (via email)

COUNTY OF HAWAI‘I
PLANNING COMMISSION FINDINGS

AT&T MOBILITY
USE PERMIT APPLICATION (USE 21-000087)

Based on the following findings, Use Permit No. 21-000087 is hereby approved to allow the construction a non-manned telecommunication facility consisting of a 105-foot tall, stealth “monopine” tower with related equipment within a 616-square foot portion of a 6.875-acre property situated in the County’s Agricultural-40 acre (A-40a) zoning district. The subject property, which is the site of Girl Scout’s “Camp Kilohana”, is situated approximately 122 feet south of the 44-mile marker on Saddle Road (Route 200) and directly adjacent to the north of Mauna Kea State Park, Por. Koahe & Pā‘auhau, Hāmākua, Hawai‘i, TMK: (3) 4-4-015: portion of 005.

The applicant is requesting a Use Permit to construct a new, non-manned telecommunication facility, consisting of a 105-foot tall, stealth “monopine” tower (100-foot tower with 5 feet of branches), an antenna array consisting of three (3) sectors with four (4) antennas per sector for a total of twelve (12) antennas, thirty-six (36) remote radio heads, six (6) surge suppressors and one (1) GPS antenna. No exterior lighting is proposed for the site. In addition to the tower and antennas, the 616-square foot (28’ x 22’) lease area would be used for accessory ground facilities located within a prefabricated 12’ x 20’ equipment shelter mounted on a raised concrete pad and a backup 30kW AC generator. The leased area will be enclosed with a 6-foot-high chain-link fence with green privacy slats, and a 12-foot-wide locked access gate. The proposed facility will be unmanned, and maintenance and repair activities will be performed by a technician on a periodic basis, typically once a month within normal working hours. The applicant will comply with all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) rules. Additionally, the facility will not interfere with the County’s public safety radio system.

The Telecommunications Act of 1996, Section 704, as amended, which amended portions of the 1934 Act, limits state or local authorities from regulating the placement, construction, and modification of personal wireless service facilities on the basis of environmental effects of radio frequency emissions, as long as such facility towers comply with the FCC’s regulations concerning such emissions.

The objective of this project is to provide an important public benefit by including equipment to support the FirstNet Nationwide Safety Public Broadband Network (“FirstNet”). As a FirstNet site, this proposed facility is part of a more significant initiative by AT&T to upgrade existing wireless sites and to build new sites to support FirstNet and deploy the new frequency band for first responders (“Band 14”). The facility also is intended to provide expanded commercial AT&T 4G LTE wireless phone service along Saddle Road between Waimea and the Pōhakuloa Training Area (PTA). The Facility also will include AT&T’s 850MHz low-band 5th Generation (“5G”) technology.

The monopole tower will be designed to accommodate co-location of antennas for other qualified providers if it can be done without substantial interference to AT&T’s use of this tower. According to the applicant, there are no existing telecommunication facilities available for collocation. that address coverage needs along Saddle Road in the area of the proposed facility.

Two alternative properties were considered to the south and north of the subject property along Saddle Road, but the property to the south was not selected because it is at a lower elevation and is situated with the State Land Use Conservation District and the property to the north was not selected because it is at a lower elevation and does not close the coverage gap toward the existing site in the PTA. According to Attachment 3 of the application, the proposed 105-foot tall stealth monopine is the minimum height necessary to fill gap coverage and provide reliable telephone and data service. The applicant also considered a 50-foot-tall tower but determined a 105-foot-tall tower is the minimum height needed to achieve adequate coverage.

The Zoning Code requires a Use Permit for telecommunication antennas and towers in the County's Agricultural-40 Acres (A-40a) zoning district. 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 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 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. Allowable uses within these areas may include community and public facilities. The request is also consistent with the Land Use, Economic, and Public Utilities elements of the General Plan.

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-sight, telecommunication towers are usually located in areas with minimum obstructions between the tower and its area of service. Line-of-sight 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. To lessen any adverse visual impacts on surrounding properties, the proposed facility is set back 110 feet from Saddle Road and the proposed tower is a stealth “monopine” design that will mimic a pine tree and will be located in an area with a concentration of other coniferous trees of various heights.

The Hāmākua CDP was adopted by the Hawai‘i County Council, Ordinance No. 18 08, on August 22, 2018. The request is consistent with Policy 34, which states: *“In the Hāmākua CDP Planning Area, applications for Use Permits for wind energy facilities and telecommunications antennas/towers shall include viewshed and, as appropriate, line-of-sight analysis to demonstrate how the request does not cause substantial, adverse impact to the community’s character, including open space, public views, and areas of natural and scenic beauty, and propose conditions to mitigate scenic impacts.”* Additionally, Policy 34 includes an associated action step which states, *“Require the use of place-appropriate wireless concealment strategies in the development or upgrading of telecommunication towers as a way to mitigate visual impacts (e. g., cell towers disguised as palm trees).”* Finally, Kōkua Action 64 urges telecommunication service providers to, *“Prioritize rural broadband access in underserved areas in the Planning Area (e.g., rural and mauka areas).”*

The applicant included a viewshed analysis and photo simulations showing the proposed tower in relation to the existing trees and vegetation on the subject property. In addition, the applicant is proposing to develop a stealth “monopine” tower which will be disguised as a pine tree to blend with the other coniferous trees on the property. The proposed tower will also help fill the gap in broadband internet access in this mauka section of the Hāmākua CDP planning area. Based on the preceding, the proposed project complies with goals, policies, and actions of the Hāmākua CDP.

Both the General Plan and Hāmākua Community Development Plan discuss the importance of protecting native species in order to maintain an ecological balance for the well-being of the island. The applicant’s environmental review found that the project site is located

within a heavily disturbed grassland area of Camp Kilohana and does not contain habitat for any State or Federally listed sensitive wildlife species. However, the applicant identified the possibility of several threatened, listed, and endangered species in the vicinity of the subject property and proposed mitigation measures based on US Fish and Wildlife Service (USFWS) guidance. Additionally, the Department of Land and Natural Resource- Division of Forestry and Wildlife (DOFAW) recommended several measures to avoid or minimize project impacts to threatened, listed, and endangered species that may grow, roost, nest, or flyover the area. The Planning Director agrees these measures should be implemented. Thus, to avoid possible impacts on these species that are protected under the Endangered Species Act, which is administered by the USFWS, the applicant will be required to implement mitigation measures as conditions of this permit. Based on the preceding, 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. The proposed facility will be located in a 616-square foot lease area situated in the northeast corner of the property and is located 110 feet from Saddle Road and 112 feet from the main lodge building. Surrounding properties are similarly zoned A-40a and consist of vacant lands. There are no dwellings situated near the lease area and according to the application, the equipment associated with the facility operates virtually noise-free and does not emit fumes, smoke, dust, wastewater, or odors. Based on the preceding, it is unlikely the proposed facility would adversely affect surrounding properties.

It is anticipated that the approval of the telecommunication tower will be beneficial to the Waiki'i community and drivers on Saddle Road 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 overhead lines into the lease area. Access to the subject property over a private, dirt driveway off Saddle Road 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 Waimea and PTA. According to the Fire Department, the proposed 148 gallon fuel tank will require an above ground tank permit. 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 about three 17 miles 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. In a letter dated January 11, 2021, the

Department of Land and Natural Resources-State Historic Preservation Division (SHPD) determined that no historic properties will be affected by the proposed use. Additionally, there is no record of a designated public access to the shoreline or mountain areas that traverses the property and no gathering or other traditional practices have been documented.

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.