

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

MINUTES
JUNE 5, 2009

The Windward Planning Commission met in regular session at 9:03 a.m. in the Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawaii with Chairman Rell Woodward presiding.

PRESENT: Rell Woodward
Takashi Domingo
Andrew Iwashita (left at 11:35 a.m.)
Zendo Kern
Shelly Ogata
Wallace Ishibashi

Brandon Gonzalez, Deputy Corporation Counsel
BJ Leithead Todd, Planning Director
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner

The Chair introduced the staff and Windward Planning Commissioners to members of the public.

REZ 09-93
DON HOOTA
& ERIC HOOTA
WAIAKEA,
SOUTH HILO

The Commission took this item up at 9:05 a.m. with approximately 13 people from the public in attendance.

APPLICANTS: DON HOOTA & ERIC HOOTA (REZ 09-93)

Change of Zone from Single-Family Residential – 10,000 square feet (RS-10) to Industrial – Commercial Mixed -20,000 square feet (MCX-20) district for 22,900 square feet of land. The property is located at the northeast corner of Laukapu Street and Hualani Street, Waiakea House Lots, Waiakea, South Hilo, Hawaii, TMK: 2-2-35:17.

(SEE EXHIBIT A)

SPP 09-79
CELLCO PARTNERSHIP
DBA VERIZON WIRELESS
KAUMOALI,
HAMAKUA

The Commission took this item up at 9:41 a.m. with approximately 27 people from the public in attendance.

**APPLICANT: CELLCO PARTNERSHIP DBA VERIZON WIRELESS
(SPP 09-79)**

Special Permit to allow the construction of a telecommunication facility consisting of a 130-foot monopole and equipment shelter on approximately 2,000 square feet of land situated within the State Land Use Agricultural District. The area involved is located near the 38-mile marker and on the south (mauka) side of the Highway 19, Kaumoali, Hamakua, Hawaii, TMK: 4-3-6:portion of 6.

Mr. Darrow oriented the Commission and public of the subject and surrounding properties on the location map and site plan, summarized the request, and noted the Planning Director recommended a favorable recommendation on the application, with conditions. He stated that the Department has received a propagation map showing the linking of the existing tower site with the new tower site and Danette Mettler's May 16th correspondence regarding a community meeting held in Paauilo on April 23rd, along with an email from Councilman Dominic Yagong. He added that in light of a late correspondence from the US Department of Interior, US Fish and Wildlife Service, the Planning Department is recommending a new Condition 6, with the remaining conditions renumbered accordingly.

Regarding the new Condition 6, Commissioner Iwashita suggested using the language proposed by the US Department of Interior, US Fish and Wildlife Service by inserting the word "initiation" to make it clear that the applicant would have to address whatever issues arise from the presence of the Newell's shearwater.

In response to Commissioner Domingo's inquiries, Mr. Darrow said the US Department of Interior's comments and proposed condition have been included in the Planning Department's backgrounds and recommendations on similar applications, wherein the applicants would have to complete consultation with the US Department of Interior before initiation of construction of a project, and that there is no FAA requirement to install lighting on towers if they are under 200 feet.

The applicant's representatives, Mike Beason and Corey Shaffer, were in attendance.

In light of Commissioner Kern's inquiry, Mr. Beason said the location of tower from the highway is 800 to 900 feet off the highway and quite a ways in elevation.

In response to a June 4, 2009 communication from L. S. Oshiro, adjoining property owner, Mr. Beason said he earlier commented that the chainlink fencing was extensive because he thought the fencing would be all along the property line from the highway up but he now understands they are talking about a fenceline at the road, noting as there is a gate down at the bottom it is not an easy drive-through access point there. He said the project is proposing a painted tower that will not stand out and they have submitted a photograph taken from a spot that the tower will actually be visible, noting the closer one gets to the site one loses sight of the tower because of the hillside. He said if they went to a pine tree pole design they would have to increase the height of the pole 10 to 15 feet to get a conical shape that would actually fit in, and it would cost several times more because of the additional weight and windload factors. He stated they have been trying to design the pole at a minimum height and yet meet their coverage objective between Hamakua and Ookala.

Mr. Beason added that their outdoor equipment shelter calls for a smaller footprint and as it does not need AC equipment it will be less noisy.

Mr. Beason then requested proposed Condition 6 regarding consultation with the US Fish and Wildlife be deleted as he felt the condition requiring the applicant to comply with all applicable County, State, and Federal laws, rule, regulations and requirements, including Federal Aviation Administration and Federal Communications Commission, was sufficient to address that agency's concern, noting that the Federal Communications Commission is the agency working with US Fish and Wildlife. He added he has not seen this specific condition for a Section 7 consultation in any of the previous applications.

Mr. Beason said Bureau Veritas, expert in the field and hired to do the environmental work, did two radar surveys (at nesting and fledging stages), and they did not see a significant impact. He added that Fish and Wildlife is seemingly taking an approach that all towers are a problem, and in cases where there have been no birds flying within the range of a tower they still are requesting a consultation, questioning the necessity of an additional consulting requirement.

Commissioner Iwashita said his understanding is that contrary to Bureau Veritas's conclusion, Fish and Wildlife Service does not concur with the actual data collected in November of 2008 and May of 2008 and find that this project will have a significant impact, and, therefore, is requesting a formal consultation under Section 7 of the ESA. He added that as a member of the County Planning Commission he was not in a position to argue with the Fish and Wildlife Service and felt this proposed Condition 6 should be retained.

Mr. Shaffer explained that they currently have about an 8- or 9- mile coverage gap between Ookala and Honokaa and basically the radius of their cell sites on the Hamakua coast to the other sites dictate that they are going to need two cell sites to cover this gap. He said there is another cell tower two miles to the southeast of the proposed location but they are unable to make the handoff because of the limited terrain, clarifying they would not be able to have continuous service on the highway for public safety needs, etc. at that site. He said even a 300- or 400-foot tower would not make the connection to Honokaa.

There was no one from the public wishing to testify on the application.

It was moved by Commissioner Iwashita and seconded by Commissioner Domingo that the application be approved as recommended by the Planning Director, with the following added Condition 6 and renumbering of the remaining conditions accordingly: "The applicant shall seek a formal consultation under Section 7 of the Endangered Species Act (ESA) from the U.S. Department of the Interior, Fish and Wildlife Service (FWS) to define measures to minimize and mitigate any adverse affects the telecommunication facility may have on endangered species in the area. Consultation with the FWS shall be completed prior to the initiation of construction of the telecommunication facility." Commissioner Domingo commented that this is the most simple application he has come across as it is not surrounded by nearby residents, there is a vast area of open space, and although there was the letter by Ms. Oshiro he thought her concern of a stealth design is addressed in the proposed conditions. Mr. Darrow agreed with Commissioner Domingo that actual project site is located near the gulch which has poor soils and rough broken land and the remainder of the property actually has pretty good soil and is used for pasture at this

In response to Commissioner Kern's inquiry regarding the applicant's June 2, 2009 correspondence, Mr. Bartel said they are awaiting a response from Department of Health on their attempt to have their cesspool meet Code requirements, adding the Health Department is aware they have two cesspools with a grease trap that is certified for their certified kitchen. Ms. Salisbury said she understands all that needed to be done was to have the cesspool card filed with the Department of Health, which was not done previously. Chairman Woodward noted this concern would be addressed by proposed Condition 4, that the applicant comply with all other applicable laws, rules, regulations and requirements of the affected government agencies for the proposed development, including the Department of Health.

There was no one from the public wishing to testify on the application.

It was moved by Commissioner Domingo and seconded by Commissioner Iwashita that the application be approved as recommended by the Planning Director. A roll call vote was taken and motion carried with six ayes (Domingo, Iwashita, Ishibashi, Kern, Ogata, and Woodward).

RECESSED

The Chair called a short recess at 10:25 a.m.

RECONVENED

The meeting reconvened at 10:37 a.m.

SPP 09-78
SYLVIA DOLENA
KAPOHO,
PUNA

The Commission took this item up at 10:37 a.m. with approximately 22 people from the public in attendance.

APPLICANT: SYLVIA DOLENA (SPP 09-78)

Special Permit to allow the construction of a temple for religious purposes, three guest bedrooms for overnight accommodations, and to conduct agricultural tourism on 5.007 acres of land situated within the State Land Use Agricultural District. The property is located along the southeast side of Iilani Road, approximately 2,400 feet from the Iilani Road - Kapoho Beach Lots Road intersection, Vacationland Hawaii Subdivision, Unit II, Kapoho, Puna, Hawaii, TMK: 1-4-73:4.

(SEE EXHIBIT B)

RECESSED

The Chair recessed the meeting at this time, 11:35 a.m., and excused Commissioner Iwashita from the rest of the proceedings.

RECONVENED

The meeting reconvened at 2:00 p.m.

BILL NO. 64
COUNTY COUNCIL
LEEWARD AND
WINDWARD PLANNING
COMMISSION

The Commission took this item up at 2:00 p.m. with one person from the public in attendance.

INITIATOR: COUNTY COUNCIL (BILL NO. 64)

Amendment to Chapters 23 (Subdivision Code) and 25 (Zoning Code) and other chapters of the Hawaii County Code to conform to the recent Charter Amendment creating the Leeward and Windward Planning Commissions.

(SEE EXHIBIT C)

SPP NO. 1135
CROWN CASTLE
GT LLC/CELLCO
PARTNERSHIP
PAAUILO,
HAMAKUA

The Commission took this item up at 2:03 p.m. with no one from the public in attendance.

APPLICANTS: CROWN CASTLE GT LLC/CELLCO PARTNERSHIP (SPP No. 1135)

Request to revoke Special Permit No. 1135, which allowed the establishment of a 250-foot telecommunication tower and related improvements on 6,000 square feet of land situated within the State Land Use Agricultural District. The property is located east of the Paauiilo Solid Waste Transfer Station, along the makai side of Hauola Road, approximately 182 feet mauka of Mamalahoa Highway, and approximately 1,900 feet west of Paauiilo Village, Paauiilo, Hamakua, Hawaii, TMK: 4-3-3:portion of 31.

Mr. Darrow oriented the Commission and public of the subject and surrounding properties on the location map and site plan, summarized the request, and noted the Planning Director recommended revocation of the Special Permit as the license contract for the land to operate the tower has expired and, additionally, several homes have been built in the immediate area. He noted earlier today the Commission approved another site for the applicants.

There was no one from the public wishing to testify on the application.

It was moved by Commissioner Domingo and seconded by Commissioner Ogata that the request to revoke Special Permit No. 1135 be approved as recommended by the Planning Director. A roll call vote was taken and motion carried with five ayes (Domingo, Ogata, Ishibashi, Kern, and Woodward) and one absent and excused (Iwashita).

MINUTES

At 2:06 p.m. the Commission took up the following minutes:

May 1, 2009 – It was moved by Commissioner Domingo and seconded by Commissioner Ogata that the minutes be approved. Motion was unanimously carried by a voice vote of all Commissioners in attendance.

ADMINISTRATIVE MATTERS

At 2:07 p.m., the Commission took up the following:

Under administrative matters, Mr. Gonzalez had nothing to report.

ANNOUNCEMENTS

At 2:08 p.m., the following announcements were made:

Charter Commission - Director Leithead Todd said the Charter Commission is currently seeking any recommendations or input in writing from the Commission.

Rules and Regulations of the Windward Planning Commission – Ms. Leithead Todd noted meetings will be scheduled at a later date when the draft rules are completed.

ADJOURNMENT

There being no further business, the Chair declared the meeting adjourned at 2:10 p.m.

Respectfully submitted,

Sharon M. Nomura, Secretary

A T T E S T:

Rell Woodward, Chairman
Windward Planning Commission