

PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
MARCH 6, 2009

A regularly advertised hearing on the application of **T-MOBILE WEST CORPORATION (USE 08-000014)** was called to order at 9:04 a.m. in the Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawaii with Chairman Rodney Watanabe presiding.

PRESENT: Rodney Watanabe
C. Kimo Alameda
Andrew Iwashita
Takashi Domingo
Frederic Housel
Shelly Ogata
Rell Woodward

ABSENT & EXCUSED: Lani Bowman

Brandon Gonzalez, Deputy Corporation Counsel
BJ Leithead-Todd, Planning Director
Norman Hayashi, Planning Program Manager
Phyllis Fujimoto, Staff Planner
Jeff Darrow, Staff Planner
Maija Cottle, Staff Planner

And 17 people from the public in attendance

APPLICANT: T-MOBILE WEST CORPORATION (USE 08-14)

Use Permit to allow the construction of a 150-foot monopole telecommunication tower and associated equipment on approximately 900 square feet of land situated within the Single-Family Residential 20,000 square feet (RS-20) zoned district. The property is the site of the Kurtistown Assembly of God Church, which is located on the mauka (northeast) side of Highway 11 directly across the Highway 11- Kuauli Road Junction, Kurtistown, Puna, Hawaii, TMK: 1-7-6: portion of 31.

WATANABE: Agenda Item No. 1 is Unfinished Business, T-Mobile West Corporation. It's a Use Permit 08-14, it's to construct a 150-foot monopole telecommunication tower. And with that I'll turn it over to Mr. Darrow.

DARROW: Thank you, Mr. Chairman. Good morning, Members of the Planning Commission. And I want to say aloha to Kimo. Thank you very much for all your insight and expertise over the years. We're going to be truly missing you, definitely.

This is a continued hearing from our January 15th meeting for T-Mobile West Corporation. They are requesting a 150-foot tower. They are requesting a Use Permit to allow a 150-foot monopole telecommunication tower and associated equipment on 900 square feet of land. This is located in Kurtistown. Just to refresh your memory a little bit, but I won't go into great detail, at our last meeting the meeting was continued to allow the applicant to address some concerns of the Commissioners. The applicant has recently submitted a letter addressing those concerns as well as a response to a letter that was received from Marilyn Richardson. We have received several or numerous letters, some of support, some of opposition, from the community members.

The applicant, as well as in her letter, has had a community meeting addressing, trying to address some of the concerns of the community; and that was also addressed in her letter. I won't go into great detail. I just wanted to let you know about these recent submittals that have been brought to the Commission's attention.

WATANABE: Thank you. With that, maybe, maybe in the interest of time we could bring up the testifiers. I do have four people from the public who signed up to testify. And so maybe if we bring them up first and allow them to testify, this will speed the process up and that T-Mobile representatives will be able to address those subsequent to the testimony, in addition to explaining the additional material they provided. Yeah? So let me go ahead and take that course of action. I have Damien Shrinski. Yeah, please come up, sir. Sam Sakamaki, and Avis Nomura, and Jonathan Sambueno, buero.

SAMBUENO: Sambueno.

WATANABE: Sambueno. Avis is here, yeah? Yeah, yeah.

NOMURA: I'm here.

WATANABE: Okay, let me swear you all in. Would you raise your right hand, please, all of you. Yeah, do you swear or affirm to tell the truth now before the Planning Commission?

TESTIFIERS: Yes.

WATANABE: Okay. Now this is the format we'd like to follow. When you have your turn to testify, please state your name and address for the record, and then you may begin your testimony. And then at all times please speak into the mike cause we're, you know, we'll have a transcript of this. Yeah? Since the microphone is closest to you, sir, maybe we can start with you.

SHRINSKI: Good morning. My name is Damien Shrinski. I live at 17-550 Volcano Road. I'm the pastor and a resident at Kurtistown Assembly of God. When I was approached by the development company that was applying to or asking to lease our property for this tower, I had some initial concerns and spoke to him, the gentleman that was initially giving me this information. And I have a small family, I mean I have a family with small kids. I'm going to be living the closest to where this tower is going to be built; and so I had definitely had some concerns. And I was also at the community meeting; and I felt that the debate that was going on

over the tower had a lot to do with debating on the questions on the what-ifs, comparing to what-will-happen. And I did some research on my own, had before, and I did some research now. Like there's questions about whether the cell tower was safe and I did, I was online, I was checking information on that with the FCC and the FDA and the American Cancer Association; and everyone, everyone agrees that the RF exposure has no connection with cancer. There's concerns about whether the cell tower will lower or raise the value of the property, and I know that the cell tower had nothing to do with the property taxes; and so there's no, no big on that. And as far as the, if the cell tower is built may that in, that might inspire other cell towers to be built in the area. And one of the things that was explained to me about that is the cell tower that is going to be built is built to accommodate for other companies to be there, so there would be no need to build any more cell towers in the area because they're sharing that. And one of the things that I believe will happen with this is that, I mean as you guys could probably put two and two together, the cell phone reception is going to increase not only in Kurtistown but in the areas in Hawaiian Acres and Huina Road above us, therefore increasing the marketability of living in that area because people, that's a need for people. The cell phone market I believe will increase because more companies are going to be more competitive in the area, and I saw that, and driving down prices and increasing more jobs in the area because more companies are going to be more available in there, therefore be benefiting not only Kurtistown but East Hawaii. And also it's going to be supporting a church that already supplies food to 400 to 500 people a month and has community meetings and events that happen in the area, therefore benefiting the welfare of the area. And so I felt it was a good thing. So I'm standing in support of that, sir.

WATANABE: Thank you. Fellow Commissioners, do we have any questions of Damien -?

DOMINGO: Mr. Chairman?

WATANABE: Father. Yes, Mr. Domingo?

DOMINGO: Yes. What's your lease rental for each month?

SHRINSKI: It would be \$500; and every five years there will be a 10 percent increase.

DOMINGO: Five hundred dollars a month?

SHRINSKI: Yes, sir.

WATANABE: Any further questions? Okay. Then, Sam.

SAKAMAKI: Hi, my name is Sam Sakamaki. Address is 556 Hinano Street. Just three issues I'd like to bring up. First is going to be the economy of the Big Island; second, safety issues; and lastly roaming agreements that we have with other carriers, with AT&T. Just, I've actually worked for T-Mobile for the past year, and before that I didn't really know much about the cell phone industry. I thought every company was the same, that they offered the same plans, the same service, things like that. Working for the cell phone industry I've been able to understand that there are differences.

And the first I'd like to bring up is how T-Mobile can help the economy when it comes to the cell phone industry. T-Mobile actually does have cheaper plans than most of the higher carriers, for example AT&T, Verizon, as examples. One example is Verizon \$59.99 gives them, what, 900 minutes with nights and weekend. With T-Mobile 1,000 minutes will give you for \$49.99, so \$10.00 cheaper. Working in the Big Island I also go and fly to Oahu pretty often to work there as well. I notice there's a big difference. In Oahu about 10 percent of the customers that we do pre-approvals or credit checks with will be approved for what's called flex pay. Flex pay is a program set up for T-Mobile where in the past we used to take deposits, where deposits would be \$200 to \$400 down for people who are still establishing their credit or made mistakes in the past. With T-Mobile rather than putting a deposit down they're just paying at the beginning of the month, so it gives a lot of these people who have made mistakes in the past or who are struggling in our economy another chance to have us serve as a carrier. In the Big Island actually about over 50 percent of our customers fall under that category of what's called flex pay. I know some people were mentioning that, you know, they do get service a little bit with certain other carriers. Those carriers are the carriers that would have to actually put a \$200 to \$400 deposit if they're still establishing the credit or building a credit, which here on the Big Island unfortunately a lot of people are in that circumstance. So just kind of to, and with that it's T-Mobile, their setup is to help these people who are in need of communications with cell phones and getting them in through that way.

Second thing is safety. Many times I've had customers come in, especially talking about, you know, Kurtistown areas, places where they are unable to get reception. I recall that two women from around Kurtistown area who explained that they've never had a cell phone in their life; and the reason why they came in that day was because they actually got into a car accident, and if they had a cell phone, they'd be able to call. Things like that get me thinking about, you know, safety issues, calling for, you know, people who actually do need to use the cell phones during, you know, emergencies, things like that.

The last thing is the roaming agreements. He actually mentioned in the beginning, but T-Mobile actually does have roaming agreements with AT&T where just because of the way the island is set up that in certain locations where AT&T has better receptions we'll roam on them and vice versa. I know he was explaining that, you know, one of the concerns is if this is approved, will they be building more towers nearby; the answer would probably be no on that because AT&T would probably roam on our towers. So, and that's my conclusion on that.

WATANABE: Thank you. Mr. Woodward.

WOODWARD: This is sort of a déjà vu all over again from our last meeting. We had another cell phone tower question, an applicant. And there is actually Statute that requires that people that build these towers allow them to be, allow other carriers to put their dishes on that tower. And that essentially avoids having sixteen towers instead of one. So I think we're fairly familiar with this issue.

SAKAMAKI: Oh, sorry about that.

WOODWARD: That's all right.

WATANABE: Any further questions for -? Does not look like it. Jonathan.

SAMBUENO: Hello. My name is Jonathan Sambueno. My address is HCR1, Box 5025, Keaau, 96749. So I'm pretty familiar with living in the Puna area. I'm also, you know, I come from a single parent family; and coming from a single parent family, you know, I grew up somewhat in poverty. You know, obviously, I turned out okay, I'm not living on the streets right now. So things were all right at times. But one of the things I always remembered when I was a kid is my mother always being worried about her car breaking down. And so in a way, yes, I'd like to elaborate more on emergency use. I think that's a really important thing. And, in general, we're all here for the same thing; we're all here for the community. I realize that there is some money involved.

But every week working the way I do, I'm a T-Mobile sales rep, I work for an indirect dealer, every week I hear testimony from our customers about how cell phones help them. I think that emergency use of cell phones is the primary concern. A lot of people coming up and down the Volcano Highway don't have reception as they're driving through there. And just the other week I remember talking to some customers who purchased some phones from us, and the situation was basically that they had, it was a husband and wife in their mid-fifties and their mother was about, I'd say, in her mid-seventies or so, you know, an older lady. And obviously being that she was working at the Mauna Loa Mac Nut Factory late shifts until 3 o'clock in the morning obviously they weren't financially secured, so to speak. The three of them all, you know, kind of pulling together to make things, you know, make ends meet. So one of their main concerns was that, you know, driving down Volcano Highway through the Panaewa Stretch to get to the Mauna Loa Factory at any point where if one of their cars were to break down without a cell phone they're just, you know, out of luck. And that's definitely my main goal in selling T-Mobile, is to help people. And I worked for a lot of different cell phone companies and I've seen the things that T-Mobile can do for the community. I've read about all the disaster relief preparation they've done for, you know, people in areas like Louisiana when Katrina hit and stuff like that. So in general I feel like this tower would definitely benefit the community.

WATANABE: Thank you. Mr. Iwashita.

IWASHITA: Thank you, Mr. Chair. I guess just to clarify some vagueness right now in my mind is basic -, your coverage is not as good as Verizon or AT&T right now in this area. Is that -?

SAMBUENO: Correct, sir.

IWASHITA: Okay. And so, you know, given Commissioner Woodward's reference to, you know, laws requiring co-sharing and all of that, why aren't the existing infrastructure or, can you explain why that's not being shared now? Why do we need a new tower when Verizon and AT&T have coverage over this area?

SAMBUENO: Well, basically, first of all Verizon and AT&T are both separate types of

cellular network. So no matter what Verizon does to help the community, we'll never be able to share towers with them due to the fact that their CDMA, as opposed AT&T and T-Mobile are more commonly sharing towers. And usually it's, like Sprint and Verizon because they have, you know, separate technologies that are basically incompatible. But the way that it works is actually, the way that the roaming agreements are made -- because AT&T does charge T-Mobile substantial amount of money to roam off of their towers, their exclusive towers -- the cell phone signal will not switch until there is absolutely no T-Mobile signal. So in the event of an emergency you may find yourself waiting for a tower to switch. So while sharing towers is a great idea -- I'm not exactly sure how the agreements are, I'm definitely not on the T-Mobile legal team or anything like that, I'm just a sales representative -- it can at times be difficult for a customer having to deal with, you know, wanting to roam off of a tower. So I received complaints from quite a few customers about, you know, the reception over there. And it's definitely a trouble spot for T-Mobile.

IWASHITA: I guess we'll wait for the representative.

WATANABE: Yeah, that might be a better time.

IWASHITA: Thank you.

WATANABE: Okay, Mr. Domingo?

DOMINGO: Thank you, Mr. Chairman. You know, somewhat of a technical question. You said their signal is incompatible with each other therefore it's not advisable to co-locate on one single antenna?

SAMBUENO: Well, I'm definitely not a technician but as far as I know generally it's going to be AT&T and T-Mobile sharing a tower; and I have no idea how Sprint or Verizon works being as I don't use their services. But I think the main point is, is generally when a cell phone will switch to a roaming partner it's going to be after a signal drops from one bar to nothing. And so I'm pretty sure that all of the Board Members have cell phones and have a good idea that with one bar you will not be able to make a phone call to a loved one should you need rescuing, should your car break down, or if something bad would happen, for example.

DOMINGO: So what you're saying is then when you co-locate on an antenna, it diminishes the other supplier's ability to transmit the signals?

SAMBUENO: Not at all, sir.

DOMINGO: It doesn't?

WATANABE: Mr. Domingo, we, maybe we're kind of putting him on the spot. We're going to have the T-Mobile representatives come up. They might be better equipped to respond to that question. So I, I understand your concern there, but when the other representatives come up we might get a more definitive response.

DOMINGO: Okay.

WATANABE: Yes, Mr. Woodward.

WOODWARD: I'll make a very brief comment. At our last meeting where we had that question of the cell phone tower in Kohala, they were planning on six different cell phone companies on one 120-foot monopole. So I don't understand the technology, but evidently that can be done.

SAMBUENO: Can I add something?

WATANABE: Speak into the mike, please.

SAMBUENO: So like I was saying, I'm not a technician. I'm actually, technically, not even employed by T-Mobile. I'm an independent contractor. I provide a service which is providing information to the public about T-Mobile services. I'm not here as a T-Mobile representative necessarily. I'm here as a community member. And like I said, you know, I come from Puna, I grew up there, and I know what it's like to live in poverty; and it's very hard when you're asked to put down a large deposit and your only other alternative is to, you know, possibly not have signal to your cell phone when you're at home. It's really hard for some of our community members. And being that I interact with a lot of these T-Mobile customers who are not, you know, who are actually low income community members, I hear them every day, you know. And it is hard for me to explain to them why they couldn't get a hold of their daughter when they didn't know where it was, where she was, why their, their, you know, 76-year old grandmother had to, you know, walk down to a gas station to make a phone call.

WATANABE: Okay. Any further questions? I think the Planning Commissioners realize that you didn't come here to really respond to maybe the more technical aspects of communication, yeah, telecommunication.

SAMBUENO: Thank you, sir.

WATANABE: Thank you. Okay. Our last testifier is Avis. Would you share the mike with her, please. Thank you.

NOMURA: I apologize. I'm back again for a kind of lengthy testimony but I'm -.

WATANABE: Oh, name and address, please.

NOMURA: Yeah. My name is Avis Nomura. My address is 17-536 Volcano Road. I live about three lots away from the Assembly of God Church. And I met the Pastor this past week when we had the community meeting there with the T-Mobile people, okay. As far as my feelings about the meeting and how it went, there are two opposing sides, so we have different points of view on how successful it was or what it provided as far as information and communications.

But what I'm here for today is to once again submit my testimony on my own behalf saying that I am against the cell tower being built on our residentially zoned property, okay.

I'm not in favor of granting or approving the Use Permit; and I appeal to the Commission to deny it at this time again.

And my reasons are:

The area is zoned residential and the proposed use is not consistent with the purpose of the zoning district, nor the intent and purpose of the Zoning Code itself. As I previously stated in January, the property is zoned residential and the County has clearly indicated as such. The request by T-Mobile does not warrant an approval as it goes against the intent and purpose of the Zoning Code which basically does not allow -.

WATANABE: Ms. Nomura?

NOMURA: Uh huh?

WATANABE: We, we have your written testimony.

NOMURA: Yeah, okay.

WATANABE: And it is quite lengthy, yeah?

NOMURA: Uh huh.

WATANABE: But, but I trust that the Commissioners have had an opportunity to read through that, so -.

NOMURA: Okay.

WATANABE: You know, I would appreciate it if maybe you could -.

NOMURA: Summarize.

WATANABE: Summarize. That would be good, thank you.

NOMURA: That's fine, that's fine. Okay. I would like to bring out some points that I think need to be addressed at this point. Like the Pastor said there are no health effects. I did want to point out that the company did give us websites to look at; and the very website that I have in my testimony there quotes summaries from the website that say it's still in a study and does not say that it is definitely with no ill effects. So I'd like you to pay attention to that part, especially on the No. 2 section. And I would like to say that a lot of people think it's safe; and if it is safe, that's fine. But because there is so much question now, I'm asking that the Commission use caution and your wisdom to postpone putting a tower in a residential area where there might be effects five years down the line, ten years down the line, like we've seen in other studies. Okay? So just to please keep that in mind, because this will involve the residents in the area, okay.

My basic objection though is because it's a residential property, not because of the health issues, okay. And the properties in Kurtistown are not very small in area, so this is why the residents have chosen to live there. A lot of them have purchased the land and have lived there, okay. It's not perfect, but it is one of the few remaining communities that is not commercialized and thinks of money as a priority. I do have a problem that in not building the tower that the church may have to forego some kind of income, okay. Because churches are in a bad way now, especially with the economy. But I don't feel that that is the issue at this point as far as what the money can be used, or how it's going to be used. I feel that we need to concentrate on the zoning and the integrity of that zoning for the people who are living there and who based their residential situation, economy, everything else on the fact that it is a residentially zoned area and they're kind of like protected from any other outside influences, okay. It will have an adverse effect on all of these people and things, and these are things that we can never recover once the tower goes up. So I ask that you do not approve the permit.

There are certain things that I also need to go over because after meeting at the meeting itself and talking to various people, I need to point out that the service that T-Mobile wants to provide is very good for their customers as far as the signal and everything, but it's not for the entire Kurtistown community as a whole, okay. So what we're concerned about is the area, the Kurtistown group. It will help some people along the highway from other areas also but it's not beneficial to the entire community, okay, just a few.

There are issues on also permit use for the church itself on the property and allowing another permit use to go through on the same property. The issue of one tower, Jonathan brought out that there are problems with the co-location and everything else. We do know that there are restrictions. If the co-location interferes with T-Mobile's use of the tower, they will not have another cell company co-locate on their tower, the same with other towers. Business-wise, if you can afford your own tower and you don't have to answer to someone else, that would be good business to pay your own expenses and have the towers. So that does not mean that there will not be any other towers. Also at the meeting someone did bring that up; and one of the employees at T-Mobile did say they cannot guarantee that no other towers will be there, that everyone would be co-locating. The County can't guarantee that, T-Mobile cannot guarantee that. The residents are the ones that will have to live with it.

This tower itself may set a precedence for others; and that's what we're afraid of also, okay.

Also, we found out that if the tower adds more equipment, they don't need to go through a fifth, a hearing process like this, it's just an administrative thing -- where I was told by the company that, yes, they have to go through a hearing. There's some information that is given and that we received that's in conflict. They are minor things, but things aren't always what they seem, okay.

I do have a problem also as far letters of recommendation or people saying that they are for the tower. I do have a problem, as I said, with the congregation and the Commission waiting your decision on those, because there is money being exchanged. Without the T-Mobile company on that property the church would not be for it. So there is income to the church. No matter what their program is going to be or how that money is being used, that's not the issue. The issue is there is payment involved. And how they spend it is up to them. But the residents of Kurtistown are not getting paid, they are coming to you as far as telling you that they do not want this tower in a residential area.

And I have submitted some signatures, not a whole lot because I tried to keep them within the range of the people that were contacted by the company, so that, you know, you would know who lived closest to the tower area. And a lot of those names on there are people who live in the area. They live along the highway, they have their residences, they've been long-time residents. Their children, as my testimony says, their children and grandchildren live there, you know. So they're not just there temporarily. They've built their lives around Kurtistown, and their residence, okay. I'm sorry and I apologize because I was not able to contact all of the people on the listing because I only got the listing this past week from the Planning Department, who has been very good about keeping me up-to-date on things. So I tried to contact whoever I could by telephone or by going to their homes. Many of them didn't know what was going on, okay, so it was communication again. Many of them did not attend the community meeting, communication again. They may have received the letter, may have not. They may not have thought it was important, I don't know. But the community meeting, there were just three from the actual community who showed up, the other three was part of the congregation, and including the pastor, okay. So based on the signatures that I have for the Kurtistown people you will find these names on the listing or people who live in the same area, okay; and they're long-time names, if you know the people who live in that area, okay.

We did ask questions at the community meeting. Some questions were answered simply with just "NO," or whatever. We were advised that they would consider our concerns where we had them, but then the site of the tower would go through, okay. So I'm asking that the Commission -. It's not for them to decide, it's for you to decide what's best for the community, and based on these people who don't want it on a residential area. It's not the signal, it's not the tower, it's not the company that they are saying they don't want. They don't want it on a residential property, they don't want to destroy the integrity of the residential property zoning. They'd like the company to just find a comparable spot, close by, whatever, but just not on residential property. That's the only thing that the residents are asking, nothing else, you know, as far as that, okay. So -.

WATANABE: Okay. Does that about summarize your -?

NOMURA: Yes.

WATANABE: Testimony?

NOMURA: Sorry.

WATANABE: Okay, thank you.

NOMURA: Yeah, be sure to read my January one for those who weren't there.

WATANABE: Okay, okay.

ALAMEDA: Mr. Chair, real quick?

WATANABE: Mr. Alameda.

ALAMEDA: Thank you. Just two, two questions for that testifier. First, do you represent an organization or -?

NOMURA: No. I'm just a resident, just one of those -.

WATANABE: Please speak into the mike.

NOMURA: Oh, sorry. I'm just one of those people who live there.

ALAMEDA: Okay. So when you, cause you keep referencing the residents as if you were speaking for the residents.

NOMURA: Only because I got their signatures and it's all attached there.

ALAMEDA: Okay.

NOMURA: Okay?

ALAMEDA: Okay. So that's the first question. Second question is, you know, you mentioned a lot of things, so we're trying to, in my head I'm trying to prioritize what matters to you.

NOMURA: Yeah, I'm sorry you weren't here the first time.

ALAMEDA: Yeah, well, this was enough. I'm trying to figure out what matters to you the most. You know, so you talk a little about, you're worrying about other towers, you're

concerned about the fact that this might be inconsistent with the General Plan, you also mentioned some safety issues, visual impacts -.

NOMURA: Okay, what we are -.

ALAMEDA: You also mentioned that maybe it's not going to benefit the entire community, only some of the community members -.

NOMURA: Yeah, cause it's a T-Mobile.

ALAMEDA: If you had to pick one -.

NOMURA: The one thing that we've always said is -.

ALAMEDA: Pick one major thing that bothers you the most -. Go.

NOMURA: It's on residential zoning property, it should not be there.

ALAMEDA: That's the only, I mean that's not the only but that's the -.

NOMURA: That's the main issue.

ALAMEDA: The main one for you?

NOMURA: Yes, the main issue.

ALAMEDA: Okay.

NOMURA: The statement on the signature forms says as such, that's it.

ALAMEDA: All right, okay.

WATANABE: Okay. Do we have any further questions? Mr. Iwashita?

IWASHITA: I just wanted some clarification on -. Good morning, Avis.

NOMURA: Good morning.

IWASHITA: For, I guess, purposes of full disclosure -.

NOMURA: That's fine.

IWASHITA: Avis is a classmate of mine from Hilo High School, class of six, no, I won't say.

NOMURA: No, don't say.

IWASHITA: Once a Viking, always a Viking. And -.

NOMURA: We're getting old.

IWASHITA: For the record, we really don't associate very much but we know each other. The, so this, I'm looking at three pages, three, four pages that has -.

NOMURA: I have headings on the top.

IWASHITA: Various, it has your name on the top -.

NOMURA: And it says -.

IWASHITA: Right-corner. Okay?

NOMURA: Yep.

IWASHITA: This is part of our record.

NOMURA: Okay.

IWASHITA: And there is, I guess a lot of these people have PO Boxes as addresses. I just wanted to clarify from your testimony that all of these people are your neighbors, they live in close proximity -.

NOMURA: You're talking -.

IWASHITA: To you.

NOMURA: About the top sheet, yes, they live in Kurtistown.

IWASHITA: Page 1.

NOMURA: And the second sheet are totally people who live in the area. And as I said I tried to get it off of the listing from the company of who they sent notices out to so it -.

IWASHITA: Well, no, -.

NOMURA: Would be comparable.

IWASHITA: Okay, I -.

NOMURA: Yeah, so -.

IWASHITA: Let me just address my -.

NOMURA: They are they.

IWASHITA: Let me address -.

NOMURA: Yeah, okay.

IWASHITA: My questions. So, yeah, humbug, yeah, but you've got to hold the mike to your mouth.

NOMURA: I'm not used to -.

IWASHITA: Okay. So the people on the first two pages basically they're your close neighbors, right? And do they consist most of your close neighbors, or half of your close neighbors, or how many of your neighbors, what percentage if you can guess?

NOMURA: Okay.

IWASHITA: This is like over 20 names, little over, 21.

NOMURA: They're from, you know, the ballpark area. They're from, you know, the ballpark area -.

IWASHITA: Well, just -.

NOMURA: Of Kurtistown to the tower.

IWASHITA: Yeah, so -.

NOMURA: I live three lots from the tower. So they're that area because -.

IWASHITA: So this is like about half the people that live between the ballpark and the tower, or where the tower is proposed?

NOMURA: Yeah, maybe half, yeah.

IWASHITA: Maybe about half?

NOMURA: Maybe.

IWASHITA: Are there some people that you've talked to that didn't want to sign?

NOMURA: No.

IWASHITA: Everyone you talked to -?

NOMURA: Yeah, and I'm sorry I couldn't get in touch with a lot of others.

IWASHITA: Okay, speak into the mike.

NOMURA: Sorry, I couldn't get in touch with all of them so I don't know.

IWASHITA: No, no, no, no. I just -.

NOMURA: Yeah, so -.

IWASHITA: Everyone that you spoke to signed this?

NOMURA: Uh huh.

IWASHITA: Okay.

NOMURA: There were, okay, let me clarify. There were, there was one person who I didn't bother to get the signature because he wanted a better signal, okay.

IWASHITA: He was a T-Mobile customer?

NOMURA: No. He's hoping that after they do all this stuff he won't have as much dropped calls. So he's counting on the connections. So, you know, that person -.

IWASHITA: Okay, so there was, one person didn't sign.

NOMURA: Yeah, I told him he could come and he could contact, or if he wanted to sign, or whatever, to just call me. He didn't call me so I left it, I didn't push.

IWASHITA: Okay. And we also have a letter of opposition from Marilyn Richardson. Is she your neighbor?

NOMURA: That wasn't mine, right?

IWASHITA: No, no.

NOMURA: Oh, okay.

IWASHITA: I'm just asking if you know her.

NOMURA: No.

IWASHITA: Okay.

NOMURA: And plus she didn't have a phone number.

IWASHITA: And I just wanted to clarify with you that there's a Federal law, Congress passed a law that says that we as a local county body cannot consider at all anything that's regulated by the FCC. In other words, the level of the signal, the power, and all of that, and whatever effects it may or may not have cannot be part of our decision-making process. So I just want to make it clear, right, with everyone here that, you know, that this body or I cannot, and the law says that, you know, if whatever T-Mobile is proposing is within the FCC standards that that's it, we cannot consider any alleged or unknown health effects, ill effects, -.

NOMURA: Okay.

IWASHITA: Or whatever, as part of our deliberation. We do however consider what the community wants -.

NOMURA: And the zoning.

IWASHITA: So that's why I asked you all the questions about your neighbors.

NOMURA: That's fine.

IWASHITA: Okay. Thank you very much, Mr. Chair.

WATANABE: Okay. Do we have any further -? Doesn't look like it, so thank you for your testimony. You all may be seated. With that, maybe we can call up the applicant, T-Mobile, and their representatives. And so for formality, let me swear you in, yeah. Would you raise your right hand. Do you swear or affirm to tell the truth now before the Planning Commission?

TERAZONO: I do.

CHAN: I do.

KAWABATA: I do.

WATANABE: Yeah, okay, great. And then can we go right down the line as far as name and address for the record; and then you all may begin your testimony.

TERAZONO: Okay. My name is Troy Terazono, RF engineer at T-Mobile; and my home address is 95-1210 Moea Street. It's in Mililani, Hawaii 96789.

WATANABE: Okay, thank you.

CHAN: Laurie Ann Chan, working for Avalon Development, address 841 Bishop Street, Suite 1601, Honolulu, Hawaii 96813.

KAWABATA: My name is Kevin Kawabata, development and construction manager for T-Mobile. Address is 3375 Koapaka Street, Honolulu, Hawaii 96819.

WATANABE: Okay, thank you. So, Laurie, I guess you're going to begin? Is that -?

CHAN: Yes. Well, I guess if any of the Commissioners -- basically because this is a continued hearing -- if you had any other questions or -.

WATANABE: Okay. It seems we already have at least one burning question, which would be the co-location matter and the ability to co-locate, etc. So, I think that was raised by Mr. Iwashita and also Mr. Domingo, so I don't know which one of you would address that.

TERAZONO: Okay, I think I should probably answer that question. So my role at T-Mobile, my title is called RF Engineer, RF is radio frequency, engineer. So part of my job is to analyze the network and see where we have coverage holes, problems with our customers. So I'm the technical guy at T-Mobile. The question is, really I think I want to clarify a couple of things. So there is something called co-location. And what is co-location? I want to clarify that. So there's two, maybe two confusing points where one is called roaming and one is called co-location. And it sounds like you guys have been very familiar with some wireless communication sites, but I just want to quickly, you know, explain what co-location is. So co-location is primarily at a tower, there's one tower, and co-location means that there's T-Mobile, Sprint, Verizon, Nextel, AT&T that can co-locate on the same tower together, basically using one structure to operate multiple networks from different companies. So I believe the question was why -. One of the questions that I heard was, well, why didn't we co-locate on existing towers in the area. And the answer to that question is actually we are co-located on existing towers in the area. The nearest site that we have is in Shipman; and Shipman we are on a site where it's shared with, I believe, Verizon. So we share that. Why does Verizon have coverage there and we don't? Verizon operates a different network at a different frequency and, you know, there are some subtle differences between the different networks. So their technology, their handsets that they use, are very different from ours. So they may have coverage in areas where we do not, and they, we may have coverage in areas where they do not. But they operate on a completely different network than ours. So hopefully that kind of explains that scenario there.

In regards to can operators co-locate? Absolutely. There is no problem with Operator A interfering with Operator B. It happens all the time. I think someone spoke of a communication facility in Kohala that's going to house six operators. So that portion of it we can definitely co-locate and work together and not interfere with each other or degrade each other's signal in any way.

The other question, I think maybe the other confusing point that maybe some of the sales guys were talking about was roaming. Roaming is something very different from co-location. And what roaming is is when our customers are allowed to use AT&T's network or AT&T's customers are allowed to use our network. And how that works is T-Mobile pays AT&T to allow our customers to use their network in certain areas, not necessarily sharing equipment or sharing a tower. So there are two differences there. I hope we can understand and clarify that. Does that, does that make sense?

WATANABE: Yeah, basically all you're saying is roaming is we switch over the communication and utilize the partner's, shall we say, equipment technology?

TERAZONO: Absolutely, that's correct.

WATANABE: Okay. Mr. Woodward.

WOODWARD: Mr. Chairman, thank you. You answered the technical question. The question that I have, and when we had this issue addressed with this 120-foot monopole that we issued a special permit for in Kohala, they had already planned on putting five or six different cell phone companies on that tower, and you say that technically that's not a problem. Do you have, do you have any plans now for coordinating this with other cell phone companies?

TERAZONO: Okay, let me, probably the answer to that question is when we planned for this site, for example, the structure that we're going to erect is needed to support "x" amount of operators as far as structural capacity. Whether we have plans to invite other operators in, no, that's not something that we do. If another operator came and wanted to co-locate on, we'd definitely cooperate with them and work with them in that sense. But there's currently, as far as I know, no plans for another operator to co-locate. I'm not sure, maybe you guys might know?

WOODWARD: Well, maybe, follow-up. There is now a Statute that people that build cell towers have to offer other companies -.

TERAZONO: Right, yeah.

WOODWARD: The ability to co-locate.

TERAZONO: Yes.

WOODWARD: It's not an option for you.

TERAZONO: That's correct, yes.

WATANABE: Maybe, maybe I can clarify a little bit more. I think what he's trying to say is they don't have any specific co-location agreements as of yet because they don't know if they're going to have a tower yet. But when they do have the tower, they definitely, I think economically also, it would be to their benefit to have co-location occur cause then it lowers their cost. You had something to say, sir?

KAWABATA: Yes. Thank you, Mr. Chairman. To your answer to that, we do not solicit other carriers up front to do co-locations on the towers on an upfront basis. We do open it up for co-locations to all of the carriers, that we all have agreements between the individual carriers for that co-location type of agreements. I understand the Statute that you are referring to and it, all of our towers are always available for other carriers to co-locate upon. It's a business decision that each individual carrier will make on their own whether they will be co-locating or applying for co-location or not.

WOODWARD: Very good. Thank you. And I might just as a comment, I think it's a great law because that way we don't end up with sixteen cell towers. Now it's, you know, this gets back into the not-in-my-backyard scenario. But to have one instead of having sixteen in the same area makes a lot of difference.

WATANABE: Thank you. Mr. Domingo?

DOMINGO: Thank you, Mr. Chairman. With regards to roaming, you know, as you explained, why, you have a tower in that vicinity also nearby?

TERAZONO: Your question is do we have a tower in Kurtistown?

DOMINGO: Yeah.

TERAZONO: The nearest one would probably be in Shipman Park -.

DOMINGO: I see.

TERAZONO: Which is probably six or seven miles down the road.

DOMINGO: So why aren't that concept of roaming applied to that where they can hitch on to another supplier and do that?

TERAZONO: Okay, I understand. Actually -.

DOMINGO: Instead of building a new tower in itself in this proposed location, why aren't roaming providing that same kind of signals?

TERAZONO: Okay. That is actually a great question. And actually today in Kurtistown our T-Mobile customers will in some places roam off AT&T. So that agreement is actually already in place. And part of the reason we are wanting to build this tower is that the coverage that AT&T provides is not good enough for our customers. They are dropping calls off AT&T's network. So their network is not as, it's probably a little bit better than ours, but it's not that much better.

DOMINGO: What about the other carriers like, like -?

TERAZONO: Okay, Sprint, Verizon?

DOMINGO: Yeah, Sprint or Verizon.

TERAZONO: It really depends, like for example AT&T and T-Mobile share the same technology. Verizon and Sprint share the same technology; but Verizon and Sprint technology is not compatible with ours. So it's a matter of compatible technology. So typically we can roam off AT&T but not Verizon or Sprint, purely because of a technology standpoint.

DOMINGO: Now with regards to some instances where people have not been able to communicate, and perhaps they're in an area where it's a dead spot and because of that they haven't been able to make contact in other parts of the island or make contact with emergency units for any kind of assistance. So now you're saying that in this kind of instance they will be able to make that call?

TERAZONO: Yes, absolutely. Well, you know, with emergency calls, first of all, to set up an emergency call you need to have some form of coverage with the network. So coverage, you need to have that in place to, one, place that call. And the other piece to consider is that the better the coverage the more accurate we can actually triangulate and locate that customer. There's something call E-911 now. If you dial 911 on your cell phone and you need help, that 911 operator will have an estimated location of where you are. And how good and how accurate that prediction is is based on how much coverage you have. So if you're in an area with a very poor coverage and you need help and you don't know where you are, they'll be able to send you help but they might not be able to locate you. But if there's solid coverage in an area they can definitely locate you, you know, pretty accurately down to I think like about 1,000 yards in some cases.

DOMINGO: Okay, okay. We're talking about official emergency connections. Now for instance if, you know, I'm driving in that particular area and I have an accident or just some immediate need for me to contact some, might be a garage or family, and I can't do it, you know, without that triangulation, everything, what will then happen?

TERAZONO: Well, if there's no coverage you simply would not be able to place the call. Your phone would say no service, and -.

DOMINGO: Okay. So what you're saying is that your antennae, your tower would provide that connection?

TERAZONO: Yes, absolutely.

DOMINGO: Okay. And so that means that anyone who has a cell phone right now other than T-Mobile, T-Mobile, would have to subscribe to your network to be able to make those kind of connections?

TERAZONO: Well, I can't speak for the coverage of the other networks. I don't know their system where they have coverage holes, where they don't. But our goal here is to provide solid coverage within that Kurtistown community so that if they do need to place a call and they press "send" they'll have very reliable service. So that's our goal here. As far as maybe what will happen with the other operators, I cannot speak on their network because that's a different company that, you know, I don't work for.

DOMINGO: So every network just uses a different RF to, to enable users of a phone to make connections?

TERAZONO: I think maybe how I can explain that is that AT&T operates on different channels. For example, they operate say on Channel 1, we operate say on Channel 10. And different channels have different characteristics in regards to the coverage footprint. Channel 1 may go a little bit farther than Channel 10, hence they have a little bit of an advantage to us because they're on Channel 1 and we're on Channel 10. So it's some subtle differences there as far as coverage. If we're saying that if AT&T and T-Mobile is on the same pole shouldn't their coverage be exactly the same? The truth is it's different from site to site, depending on what channel they are granted to use by the FCC.

DOMINGO: What differentiates one channel from the other?

TERAZONO: That's something that -.

DOMINGO: That's radio frequency, huh?

TERAZONO: It's radio frequency, yes. So what it is is it's bands or channels that we use that we purchase from the FCC. So AT&T purchase certain channels, we as T-Mobile purchase certain set of channels; and that's, it's very technical in nature. But to simplify it, you know, that's why I use the one to ten channel scale. But there's actually hundreds of channels, and the combination of them. I mean in some cases we have higher channels than them, in some cases we have lower channels than them. It varies from location to location basically.

DOMINGO: You know, to carry this discussion further on, and although this, your answer on this one will not determine whether I'm going to say yes or no. But, you know, in the past when I used to travel from Honokaa to Hilo, you know, there's certain, there's an area in which the plantation is quarrying, you know, and then they say if you have any cell phones or mobile phones turn it off. Why is that?

TERAZONO: There was signage saying to turn it off?

DOMINGO: Oh, yes.

TERAZONO: That I'm not sure why they had that. I mean I wouldn't be able to answer that question. I'm not sure what was going on in the area. Maybe they had some very sensitive communication equipment that they were using that they potentially thought we could interfere with. Typically we don't interfere with other communication equipment, but I'm really not sure

why they would do that.

WATANABE: If I had to guess, Mr. Domingo, they're probably using explosives.

WOODWARD: Well, you don't want to set off a blasting cap with your cell phone.

DOMINGO: That's why, you know, that's why I asked the question.

WATANABE: At any rate we might be straying from the -.

DOMINGO: No, no, because, again, I said, this will not, the answer would not stray me either way whether I'm going to make a decision or not because -.

TERAZONO: That's a great question, actually. It's a great question.

DOMINGO: You know, because radio frequency is very, can be very powerful, you know. And it can trigger an explosive from a distance -.

TERAZONO: Yeah, absolutely, absolutely.

DOMINGO: If the radio frequency is strong enough.

WATANABE: Yeah.

DOMINGO: It sounds like I know what I'm talking about.

WOODWARD: Well, we know, we know otherwise (jokingly).

WATANABE: Well, yeah, we might be straying from the topic though, yeah, okay.

TERAZONO: Well, just to put things in perspective, the signal that we transmit off our cell site is probably a thousand times less than a -. For example, if you look up the road there's a tower from the police station that's transmitting the police station's two-way radio. They transmit at levels a thousand times greater than what we transmit, so, just to put things in perspective there. You know, is the T-Mobile phone going to set off explosives? Probably not. But more than likely a police radio would have a thousand times more power, they might have more, you know, chance of that happening there.

DOMINGO: Yeah.

WATANABE: Okay, okay.

DOMINGO: Wait, wait, one more question.

WATANABE: Okay.

DOMINGO: You know, it wasn't too long ago, and this was when the cell phones have been out for quite some time already, when there is continuous use of cell phone for a prolonged period of time and you have it on your, you know, by your ear, right next to your brain, yeah -. Would the radio frequency have some negative impact on your brain?

TERAZONO Great, great question. Actually it's a real common question there. Health effects, we're back to health effects, as far as studies that's been done today, no, there's no impact on your brain. And, again, back to the, to put things into perspective, the signal that you're receiving from a radio station, for example, into your brain is much stronger than it would be off of a handset right next to your head. It's just to put things into perspective there. But as far as, you know, health effects, again, it has been studied scientifically and, you know, there has been no study that says it causes cancer, it's going to cause brain tumors. And a lot of people will say, well, we just don't know. Right? That's a common theme I hear all the time, we just don't know. And, you know, my answer to that is, you know, for example, I gave my daughter NyQuil this morning. Today NyQuil is safe. A hundred years from now they might say, hey, there's something wrong with NyQuil, it might give you cancer. So I can't guarantee that that, you know, 100 years from now somebody might find something bad about RF emissions. But you could say that about pretty much anything, you know, medicine, electric, fluorescent lights, for example. So, back to the health issue, we do know, there is strong scientific data proving that there is no harmful effects. And, you know, we could go back to the Cancer Society, a lot of different organizations that have studied this.

WATANABE: Okay. Mr. Woodward.

WOODWARD: Thank you, Mr. Chairman. Yeah, I think one of the main arguments, apart from the financial and commercial aspects, has to do with emergency services. And certainly, you know, once you get your tower up and you have better coverage in your area for the T-Mobile customers, they will have better access to emergency services. But, also, I would assume then that other people, the other carriers are going to put up dishes on your tower and that will also improve coverage, emergency services for the other AT&T, Verizon, Sprint, etc.

TERAZONO: That's correct. Well, let me, let me maybe let you know what happens with emergency services. So, emergency service to the wireless communication business is obviously very important. So if for some reason, say for example, AT&T did not have coverage in an area and they hit 911, that phone would then search for AT&T's coverage; and if it didn't find it, even though they weren't partnered with T-Mobile in that area for roaming, that 911 call would still go through. So when we, if this site is built in this community and you had an AT&T customer that did not have coverage in the area, they would still be able to place that 911 call, through our network. So that's, you know, something to think about when you talk about, you know, public safety and benefit to the public there. So that's already in place.

WOODWARD: Thank you.

WATANABE: Any further discussion?

HOUSEL: Yeah, I had a question.

WATANABE: Mr. Housel.

HOUSEL: Question regarding -. I was reading the application. In the application it said that there is virtually no impact, you know, to the community as far as the presence of the tower and its equipment. Obviously our concern is any effects that the, on the quality of life of the neighborhood as a result of this tower. And it makes a statement in your application that the operation is virtually noise free. However, there is a backup generator on site, right?

TERAZONO: Yeah. Kevin, you want to answer that.

KAWABATA: Yeah. We do intend to put a backup generator on the site; and this is for emergency purposes only in the event of a black-out situation. And the generator, the only times the generator would actually be in operation would be during that time or during a maintenance run where because it's an unmanned facility the system would be programmed at a given time and date during the month to turn on, exercise itself, as well as charge the battery itself so that the generator will start up when in, you know, in a situation.

HOUSEL: Okay. How large is the generator?

KAWABATA: The generator itself, the ones that we normally deploy, it's a 30 kw generator with what we call a residential pack, which means it's meant to be deployed within a public area; and it's about 67 decibels at full run. And it's, the dimensions of it is about the same size as this table right here.

HOUSEL: Okay. And the noise, the exhaust is suppressed, the exhaust noise?

KAWABATA: Yes, there is a muffler on it. It sounds similar to a diesel truck right now.

HOUSEL: Okay, would it be heard from adjacent property?

KAWABATA: It can be heard from adjacent properties. I do know that, you know, the area in question being, you know, a residential area and the quiet community that it is, in the evenings when everybody is asleep definitely I'm sure you could hear it, you know, if it were to be running at night.

HOUSEL: I see. And that's only used during, now you said it's used for two purposes, in case of emergencies and also to charge the batteries?

KAWABATA: Yes.

HOUSEL: How often would it be in use?

KAWABATA: About once a month and we usually program that for in the middle of the day about 20 minutes to a half an hour run.

HOUSEL: Okay, okay, thank you. Well, one other question, reading your spec it looks like most of the components of the tower are galvanized finished?

KAWABATA: The tower will all be coated galvanized and then the generator housing itself is stainless steel and powder coated.

HOUSEL: Okay, okay. Is there, to minimize the visual impact of the tower to the community, is there something T-Mobile could do to minimize that?

KAWABATA: Well, what we try to do with most of the towers that we have done in similar situations is work with the Planning Commission and the permitting Departments to paint the tower to a, what will most likely blend in with the surrounding from any, you know, from the given direction that you will be looking at it, whether it be a green or a lighter shade of color, depending; and that's something that we work with the planners on.

HOUSEL: Okay. Do you have, what finish do you intend to use at this point if you do get the tower approved?

KAWABATA: Right now it will be a non-reflective and it will be painted to match surroundings, is the only thing that I can tell you right now because a particular color has not been picked out for it yet.

HOUSEL: I see. Okay, thank you very much.

KAWATABA: You're welcome.

WOODWARD: Mr. Chairman?

WATANABE: Okay, Mr. Woodward.

WOODWARD: I made a semi-facetious comment back in January at the last time we discussed this to some of the other Planning Commissioners, that since this is in the back of the church is this for better communication with God? And if you really want to make it look, blend in with the setting put a big "cross member" there. You've got a big cross. Well, that's just silly. But, anyway, I just say it.

WATANABE: Mr. Domingo.

DOMINGO: And it's good to have some humor in the meetings like this. Thank you. You know, you mentioned that the noise would be similar to a diesel truck passing?

KAWABATA: Yes.

DOMINGO: Yeah, I hope you don't mean when they use a Jacob, Jacob's brakes, yeah.

KAWABATA: No. More like F-350 Super Duty or something in that nature.

DOMINGO: Now to the staff, you know, we had a number of cellular towers located throughout our island. How many of them have the requirement to paint that, to paint it to blend in with the environment, or is that a standard requirement?

HAYASHI: I just noticed that for this particular application we don't have a condition to that effect. But in most cases we do require them to be painted a certain color; and basically the reason for that is that, well, that we put that color scheme for the towers, that's what the applicant had intended to do. For this particular application, unfortunately, we didn't put such a condition. Perhaps we may even have to, want to include that condition. But at this point in time we don't know what color -.

WATANABE: May I suggest that you just work on wording that would say work with the Planning Department and get the Planning Director's approval?

HAYASHI: Yeah, that would be a good, that would be a good condition to -.

WATANABE: Yeah, and that would be one simple one so you can leave it to, and that might even open it up to some input from the community and be simple to follow, yeah?

HAYASHI: Yes.

DOMINGO: Has this requirement been imposed on other towers? Have all of them performed and done that?

HAYASHI: Yes. They would have, in order to get approval they would have to conform to whatever the specific condition was as to the color, if that was included.

WATANABE: Yeah. Mr. Domingo, I recall in some that we even said that you would have to put vinyl coating around the guy wires that were green, etc. We went to that extent on some of the applications. This, however, I believe does not have the guy wire because it's a single monopole. So you would just be looking at the painting of the monopole itself. Yeah?

KAWABATA: That's correct.

WATANABE: Yeah, okay. Mr. Iwashita, you've been waiting?

IWASHITA: Thank you, Mr. Chair. I've been looking at the alternative sites that were looked at and, I guess, you know, in looking at the government maps in this area I guess my question is, and any one of you can answer it, why, if there's -? All of the alternative sites basically were close to the, you know, Volcano Highway, Highway 11, relatively close. And I'm wondering why -. You know, in this area to the east and south, I guess, of the highway we have all of our substandard subdivisions which is today probably the most popular real estate in Hawaii, you know, and people build there. I have actually personal knowledge people build there without permits, whatever. People are building no matter what, right? And given the prior testimony about, you know, the competitiveness of your pricing, it would seem like that's a real

natural market for, for, you know, the area. So why or can you explain to me why no site, you know, east and south of Highway 11 was considered given, you know, if you're going to do a 180-foot tower you could site it substantially off of the Highway in one of these substandard subdivisions on somebody's lot and not impact anybody visually, and then open up a whole area, you know, between, the triangulation area between Keaau, Orchidland and I don't know the name of the subdivisions, you know, south and east of the Highway going up. But there's, you know, south of Keaau Ag lots there's lots of, you know, substandard subdivision lots there; and I'm assuming a bunch of people live there, that's why you have all the traffic problems coming into Hilo in the morning. So, you know, I'm not doing your business, but I understand the emergency concerns and all of that. But it seems to me like, you know, marketing, well, never mind. Why wasn't any place in there considered?

TERAZONO: I think maybe that, that area is actually a different area that, that, you know -. Why wasn't it considered, maybe we should look at, you know, the footprint of the site and what we're trying to accomplish with this particular site. In some of those areas it's a little bit maybe too far east to meet some of our coverage objectives. So, you know, we did look at several areas, which I think is documented in some of the information that was provided to you. You know, how do we come up with this particular area? And maybe to better answer your question is -. You know, what is our process that we came up to pick this particular area? And really it boils down to a lot of different factors. So some of it is scientific engineering data which I do as far as studying where the coverage will be if we built the site at Location A, Location B, Location C. That's something that's part of my job. But that's just a small piece of the pie to the decision-making process. A lot of it has to do with, is it feasible. Like, for example, some of these properties that you talked about it may not have proper power facilities or it might not be feasible from a construction standpoint. So there's a lot of different factors. We also looked at, you know, is there going to be HELCO services there. So as to, you know, these specific locations that you're talking about, I really can't answer your questions specifically to those locations.

IWASHITA: Okay. Are there any cell towers that are green? In other words they run off their own solar-generated power, or wind power, whatever, not off the grid?

TERAZONO: Actually I don't think we have any but I've actually seen some in my career. I believe there's actually a couple in Hawaii that might be solar on a -.

IWASHITA: Out on some puu some place where there is no power off the grid and so they've got to generate their own power?

TERAZONO: Yes. I think they have some sort of solar system.

IWASHITA: Okay. So let me show you your map. Who prepared this map, this?

TERAZONO: I believe I prepared that, yes.

IWASHITA: Okay. So this one says T-Mobile proposed site coverage. It is, there's no page number on this one. This is the second to the last map.

TERAZONO: Okay.

IWASHITA: There are several in here, right? And then this shows, I believe it shows an 180-foot tower, or the effect of the 180-foot tower, and how it would work together with your existing two towers, one up at Enos Road and the one down in Shipman Park.

TERAZONO: Shipman, yeah.

IWASHITA: Right. And basically showing how it connects, or basically provide continuous coverage from, in, between those two towers -?

TERAZONO: Correct, yeah.

IWASHITA: So, that's the whole purpose of this, right. Okay. So my question goes to, you know, and from our, our job on the Commission is to look at it from the community's perspective. You have your profit motivation, all of that, that's great. But from our, you know, we're trying to look at it from the community's perspective. And in my mind from the community's perspective it would be a whole lot better for the community as a whole, if you would cite this tower, 180-foot tower, a little bit more to the, I guess it would be almost east; and I don't know if that's north, but closer towards -.

TERAZONO: Why don't you just point out to me -?

IWASHITA: Right about here, if you sited it.

TERAZONO: Okay.

IWASHITA: Out at the edge, right?

TERAZONO: Okay.

IWASHITA: Okay. And there may not be any power out there but that might be the edge of -.

TERAZONO: I understand the location.

IWASHITA: That might be the edge of Orchidland or something like that.

TERAZONO: Yeah. And, you know, again, it boils down to a lot of those factors, not just coverage. It's not just, the choice of selecting locations is not purely based off the coverage requirement. In some of those locations the elevation of the ground might be a lot lower than where the current site is located at. So, you know, I can't say that exact location because I didn't study that exact location. But, for example, the location might be lower in ground elevation.

IWASHITA: Okay. So, so the effect of that would be to have the similar amount of

coverage you need a higher tower?

TERAZONO: Well, we would need a higher tower or the other option would be we may need two or three. And, you know, we're not here to build a hundred, hundreds of these towers all over the place. We're here to build the minimum amount; and that's -.

IWASHITA: Well, -.

TERAZONO: Within, you know, guidelines. So to answer your question really, you know, it might boil down to we might need a higher height or we might need more than one.

IWASHITA: Okay. So my understanding in looking at some of the other information in the file is our height limit on these kinds of towers is 500 feet, right? So if you had a tower that was twice as high as this one, you know, sited some place, would that double the coverage?

TERAZONO: In some cases it would, depend on the location, it would double the coverage. But there is a certain limitation as far as height goes where we also run into issues with the FAA, for example, as far as the airplanes. And when it goes into that route sometimes they allow it, sometimes they don't. It starts going into painting and lighting of the tower.

IWASHITA: Okay, sure. I'm sure you've got to, okay -.

WATANABE: Okay, okay. Mr. Iwashita -.

IWASHITA: I'm trying to wrap, I'll wrap up.

WATANABE: I understand you're looking for an alternate location. But, you know, it took them years to come up with one location; and none of us here have the expertise, yeah, to determine whether one location is better than the other. So I think we should discuss the merits of this location as opposed to trying to play telephone communications technician and find an alternative location.

IWASHITA: I appreciate -.

WATANABE: If you don't like this location, that's one thing. You can vote no.

IWASHITA: I appreciate the Chair's point. It's my perspective though as a member of this Commission that our perspective really is, you know, it's not focused on, well, we have to respect and take into consideration the applicant's financial motivations and the benefits. Right? I fully appreciate that. You know, from, one of the things we do need to consider is the General Plan, the Puna Community Development Plan, how, and the kind of infrastructure that we need to support in order to, you know, make the communities work better. Right? So cellular technology given is going to be, you know, it's here and it's a question of how we develop infrastructure, what, how we, what kind of process and how we want this tower, cause it's going to, it's all line of sight. Right? Is there any development in improving cell signal technology so it's not, line of sight is not required in the varie-, you know, the, I mean the variegating of the signal, the -?

TERAZONO: Well, you know, as time goes on things get better. So, you know, to answer your question, in the future, yes, we may need less cell sites. And that's just something with new technology as it comes about.

IWASHITA: Okay. But today we have line of sight limitations -?

TERAZONO: That's probably going to be with us for some time, you know.

IWASHITA: Right, so -. I appreciate the Chair's point. My concern really is, you know, given the zoning, and that's the whole reason why we -. I mean, if this was commercial property you wouldn't be here. Right? Except for, I mean, some other considerations. But this is residentially zoned property, that's why you're here. You need a use permit. And we're looking at an exception to what the community has deemed the appropriate zoning and use of this property. So when we're looking at making an exception, it's my perspective that then we should look at a broader view. We really need to look at the broader view. So in terms of, I really would like to encourage T-Mobile and all the other carriers, you know, and I know it's a competitive business, but from our perspective, from my perspective sitting on the Commission really I'm looking at it as, as, you know, if, you've chosen this site, you've chosen to apply and go through this process. You know, as I see it, if this is denied then you've got to go find some place else. Right? And so, you know, that's just part of the process. And in the meantime your customers would need to rely on the roaming and all of those other things to patch up the coverage in this area; and I understand the difficulties they're having with that, as you folks have testified to. So thank you again for your, I appreciate your testimony in explaining the various other considerations on why another site as I've sort of suggested was not selected. But that's not to say that it couldn't be done. I mean if it was the best way to make money for your company that's, you would be sited there, right?

TERAZONO: Yeah. Well, you know, we're in a business to make money, right.

IWASHTIA: To make money. Thank you very much. Thank you, Mr. Chair. I appreciate your patience.

WATANABE: Okay. If we have no further questions for the applicant then you may be seated. And I have a late request from one member of the audience to testify, provide public testimony. So I'd like to call up Isaiah Justice.

JUSTICE: Thank you.

WATANABE: Yeah. Do you swear or affirm to tell the truth now before the Planning Commission?

JUSTICE: I do.

WATANABE: Okay. Mr. Justice, would you, name and address, please.

JUSTICE: Yes. Isaiah Justice, 15-6271 Awa Street, Pahoa, HI 96788, or 967, yeah, 7, I don't know.

WATANABE: Okay.

JUSTICE: Okay. I just wanted to say that I don't know if this was a purposeful perjury or whether this was, he does say he has scientific background, or if it was just misspoken. But as far as the emergency communication of cell phone systems go and as far as AT&T and T-Mobile sharing lines, when -. I've gone camping on numerous occasions. And I actually have T-Mobile as my service, and so this is besides the issues. I wish they would have more towers, but I just can't let this slide. When you go down to Laupahoehoe you have no signal from any service whatsoever. My wife and I were camping down there one night and there was a whole bunch of people getting extremely rowdy, and my wife was kind of concerned cause we were camping down there. Right? So she said, well, call 911 to make sure that, you know, they can come down here and save us just in case something happens. And I said, well, babe, we don't have service; you know, we tried to call your mom, there's no service, it says no service. So we called, I said, okay, I'll try it. So I called 911, E-911 for this cell mobile service. We got through with no problem, not near a tower or anything like that; and they knew exactly where we were. So I don't know exactly what his type of testimony is going on; but it's very simple to, if anyone who has T-Mobile, go down with a cell phone to Laupahoehoe where there's no signal and dial 911.

And then as far as whether they're going to paint these towers, there are, he didn't fully testify because there are ways that you can actually camouflage these towers so that they don't have to be painted. It costs more for the company but you can actually camouflage these towers to blend in with the terrain more. So it was not the whole truth on that portion of the testimony. And I'd be willing to answer any questions, but that's basically all I had to state.

WATANABE: Do we have any questions of -? Mr. Domingo.

DOMINGO: To do justice to the applicants, I don't know if they were trying to mislead us but I was of the understanding that when emergency situations, you know, you automatically are referred to other units whereby you can send those signals to the intended parties. So I

personally don't think I was misled by that, unless -.

JUSTICE: Well, from the testimony I heard, if I may respond, from the testimony I heard they were saying that they, that one of the needs for these towers was for emergency purposes, and then their explanation as to why. Yet there are instances on this island at locations where you have no cell phone signal for this carrier that you're on. And as far as switching from T-Mobile to AT&T, that happens regardless of whether it's an emergency or not, because I have T-Mobile. So in certain regions it automatically switches over to an AT&T because of the roaming contract. So it really doesn't -. I'm not like an expert but I know that Verizon and Sprint do use different systems, so as far as their emergency system it would be different. But as far as AT&T and T-Mobile since they share the same technology, if you don't have a signal down in Laupahoehoe from the T-Mobile tower you don't have a signal from an AT&T tower, because you just don't have a signal.

OGATA: But you do have 911.

JUSTICE: But you do have 911. So that's, it did, the testimony just didn't sound as accurate, and I'm not accusing anyone of anything. I'm just saying that the testimony did not sound as accurate as it should have been.

WATANABE: Okay. Are we, then no further questions? Okay, it looks like you may be seated. Looks like we came up with some suggested wording for a new Condition 6, and this would be regarding, you know, how we can disguise the tower and have it blend in. Let me read that to the Commissioners as well as the Planning Director to see if this can fly, this draft can fly. The applicant shall work with the Planning Department to create a stealth monopole design, including its color, meeting with the approval of the Planning Director. Any suggestions on this? Does that do, does anyone feel that this might satisfy concerns about design?

IWASHITA: Mr. Chair?

WATANABE: Yes, Mr. Iwashita.

IWASHITA: My suggestion would be that if there's going to be a requirement for a stealth appearance, you know, camouflage, whatever you want to call it, that it just be made a requirement and that it be subject to the approval, and not have to use words like work with and all of that. Just say that the tower shall be built with the stealth appearance to camouflage its position and subject, you know, it has to be, whatever it is has to be approved by the Director.

DOMINGO: Mr. Chairman?

WATANABE: Yes, Mr. Domingo.

DOMINGO: I think as we discuss this issue, I think it would be more proper to entertain a motion first.

WATANABE: Yeah.

DOMINGO: Yeah?

WATANABE: Yeah. I -.

DOMINGO: I know what you're trying to do and I appreciate that; but I think it would be best if we made a motion first, and then discussed that.

WATANABE: Okay. Does anyone care to make a motion then? Does anyone care to make a motion, or you want to go through further discussion?

DOMINGO: I'm not ready to make a motion.

WOODWARD: You're not ready?

DOMINGO: I will respond to a motion but I'm not ready to make a motion.

WATANABE: Okay.

WOODWARD: All right.

WATANABE: Mr. Woodward?

WOODWARD: All right. Well, nobody else will, I will. I recommend that with regard to the Use Permit Application 08-000014 from T-Mobile West Corporation that this Use Permit Application be approved. And I would suggest change in the wording perhaps a little less cumbersome than what was given to you, that the tower will be painted in such a way to blend in with the background and the area subject to the approval of the Director. I've never heard of a stealth pole by the way. Stealth airplane, never heard of stealth pole.

WATANABE: Okay.

HOUSEL: I'll second, I'll second that motion.

WATANABE: Okay, we have a motion and a second. Discussion? Yes, Mr. Iwashita, you had something?

IWASHTIA: Well, I just wanted to make my record, speaking against the motion. My main concern is basically the community, the evidence we have before us is that most of the community, based on the petition we received, objects to the location of this cell tower in their community; and I know it's a NIMBY kind of an issue or perspective. But in my mind, you know, when you balance, what I'm trying to do is balance the need; and obviously for the company there's great need to increase the coverage and improve their marketing in this area, that's on the one hand. On the other hand you have the community opposing this specific site location, not saying that we don't really need it anywhere in this community, but this specific site location. And, you know, based on my questions on alternatives, right, I mean, the

alternatives that we have in the record, you know, explanations were given. That's not to say they couldn't be used. They're just not as, the company perceives them not as good. I have my own suggestions about what might be better for marketing for the company but I don't own stock in the company so they can take that for what it's worth. But in my view balancing, you know, the company's need for this to improve their marketing and the community's objections to it, which are relevant and appropriate, I think, given the nature of the neighborhood and, you know, the issue about effect -. If somebody were to build a 180-foot cell tower, right, a block away from me, let's say it's possible they could do it, you know, cause I live up Kawaiiani Street -- and if the owners at Wiki Wiki made a deal with some cell company to build a 180-foot tower over there -- you know, I live Tiger Wood's six iron from, you know, that location, and I don't think that would improve my, the value of my property, you know, having that visual impact, for one, among other considerations. So, you know, I don't think we can take the community's concerns lightly. I think we should give them proper weight; and when I do, you know, my inclination is that essentially, you know, asking T-Mobile to find a better spot that's not as objectionable and they can still serve its purposes. Thank you, Mr. Chair.

WATANABE: Okay. Mr. Domingo?

DOMINGO: Thank you, Mr. Chairman. I would speak against the motion also. And I would just like to say that, you know, I have an affinity of cellular towers being permitted in residential communities. And I hope that the Planning Director and the staff would look at this whole issue about this being a permitted use in residential areas and that it can only be permitted or approved through a use permit. You know, this is an on-going program, an on-going problem with many people in, you know, in our island. Because when this is done it impacts on the residences within that area. Now if a cellular applicant would propose a tower above Komohana within the vicinity in the surrounding of Sunrise Ridge, you know, how would it be taken, you know. I'm sure the applicant, could be Verizon, AT&T, and anyone would not certainly go in there because they know that the opposition would be tremendous, they'd be fighting an uphill battle, you know. And -.

ALAMEDA: Mr. Chair?

WATANABE: Yes.

ALAMEDA: Just to respond to that. I live in Sunrise Ridge and so my testimony would be in contrary to that because I cannot get coverage in Sunrise Ridge. And so, you know, this is just the bottom line, it's just some give and take. Right? You cannot get all your eggs in the same basket. You've got to share the basket. So -.

DOMINGO: Mr. Chairman, I have the floor, I have the floor.

WATANABE: Okay, well, we'll let you finish. How's that?

DOMINGO: Okay. It's just, the bottom line is that I don't feel that a cellular tower should be permitted in residential areas. Now if anyone who lives in Sunrise Ridge or any part of the island who lives in a residential area, if they would welcome a cellular tower next to their

property or in the immediate vicinity of their property, good and well. They want it there, and if they can convince the rest of those in the residential community to approve that, it would be even more power to that individual and to the applicant. But in this case, we have individuals who come here, although not many of them have spoken, but they have a strong concern about cellular towers being permitted in a residential zoned area. And that's why I'm saying, I'm saying that perhaps the Planning Department should look at that part of the Zoning Code where cellular towers are permitted in residential areas, and not only cellular towers, other uses, other uses that that may negatively impact on residents. I think this is something that needs to be done; and perhaps, perhaps I was a part of this being in the Zoning Code, I may have been a part to that. And for that if I have, if I was given another chance then I would certainly move to, I would try to delete that from that zoning designation.

WATANABE: But from what I'm hearing if they worked on that law you wouldn't vote for it anyway.

DOMINGO: Well, that's right, yeah.

WATANABE: Okay, so your point is taken.

DOMINGO: Thank you.

ALAMEDA: Mr. Chair?

WATANABE: Okay, Mr. Alameda.

ALAMEDA: Sorry. I apologize to Commissioner Domingo. When you took your breath I thought you was done. I just wanted to -.

DOMINGO: I thought was ready for lunch yet.

ALAMEDA: No, I just wanted to speak in favor of the motion. Again, like I said earlier, it's a balance, yeah, between the visual impacts and the fact that we need coverage in certain areas. And, you know, you mentioned Sunrise Ridge, well, I live there and I don't have coverage. And it's very uncomfortable sometimes just worrying about my family's needs and the safety of my children, so I'll be voting in favor of the motion.

WATANABE: Follow-up, Mr. Domingo?

DOMINGO: Thank you, Mr. Chairman. And it's not a rebuttal to Commissioner Alameda. But I think we shouldn't be misled to think that anyone would be able to get coverage in that entire area, because if they want that so-called coverage, then they have to be a subscriber to their facility, you know, not Verizon, not AT&T, or anybody else. They have to be a subscriber to their facility. So, you know, how many people are willing, would be willing to make that change from their present carrier to this carrier? That's another question.

WATANABE: Okay. Mr. Housel?

HOUSEL: Yeah, Mr. Chair, I'd like to make a comment. And, first of all, I want to commend T-Mobile for conducting the community meeting, putting all the effort into what you did. I think it was a very good gesture on your part, and I appreciate your going through that trouble to do that. I also wanted to make a comment that in situations like this where parts of the community are against something and other parts are for it, it makes the decision very difficult, you know, to decide which way to go. And so consequently you have to weigh the merits of the benefits of doing something like this versus the drawbacks. And so it's a very close decision. I haven't actually made my mind up yet. But I want to express to you my thanks for all of you coming in and getting involved. I think that's a wonderful thing for your community, either way the Commission decides on this. So thank you.

WATANABE: Mr. Iwashita?

IWASHITA: Just a thought on Commissioner Alameda's expressed concern. And I guess, you know, I, living in town and, you know, I get two or three bars at my place -- I don't really have, you know, with my service -- so I don't really think about those things. But I appreciate the concern. I guess, though, based on what I heard today if the testifier can, with no service on his T-Mobile phone, get 911 at Laupahoehoe Point where he's camping, that it seems like any place in town you should be able to dial 911 no matter where you are and get through. So as far as for emergency services purposes, assuming that that's correct, and that's my understanding of what the applicant's testimony is, it doesn't matter where you are, doesn't matter what service you have, as long as there is some kind of cell coverage if you dial 911 on your phone you're going to get through and be able to be located. So, and that was confirmed by the last testifier. So to me that, when you balance that on the scale in terms of the emergency services need, that takes it off the scale, because there is already multiple service in this area. You don't have to have T-Mobile to get, you know, if you get in an accident you should be able to get through. So it, again, it's just, the balance to me is the expansion of this company's service for its customers really, again, with the community's concerns and so forth, so that's how I view it. Thank you, Mr. Chair.

ALAMEDA: Clarification, Mr. Chair, real quick.

WATANABE: Yes, Mr. Alameda.

ALAMEDA: I wasn't really, I mean I was thinking about, you know, ambulance emergency, too, but I was thinking more along the lines of family emergencies, non-ambulance related. You know, that's, when you get a lot of kids you get plenty non-ambulance family emergencies. Thank you.

WATANABE: Okay. Any further discussion? Doesn't look like it. Mr. Darrow?

DARROW: Thank you, Mr. Chairman. Just for clarification purposes, I'd like to read the added condition, "The tower shall be painted in a manner to blend with the surrounding area meeting with the approval of the Planning Director."

WATANABE: Correct.

DARROW: If it's okay, if we could place that at the end of Condition No. 2 which is the final plan approval condition. That way it would actually not add a new condition but it would be added to the condition that will be reviewing the tower.

WOODWARD: Well, it's my screw-up. That's fine.

DARROW: Okay. Thank you for that. With that I'll take the roll call. Commissioner Woodward?

WOODWARD: Aye.

DARROW: Commissioner Housel?

HOUSEL: Aye.

DARROW: Commissioner Alameda?

ALAMEDA: Aye.

DARROW: Commissioner Domingo?

DOMINGO: No.

DARROW: Commissioner Iwashita?

IWASHITA: No.

DARROW: Commissioner Ogata?

OGATA: No.

DARROW: And Mr. Chairman?

WATANABE: Aye.

DARROW: The motion does not pass four to three.

WATANABE: Okay, well, let's see -. We've had this addressed two times. So the issue of time comes into play, yeah, the 90 days. And I'm not sure how the timing issue is on this. Okay, maybe we should take a recess. It has been a while and we already know what the results of the vote are, so let's take five minutes.

RECESSED The Chair called a short recess at 10:53 a.m.

RECONVENED The meeting reconvened at 11:12 a.m.

WATANABE: Will the Planning Commission please come back into order. As you had all witnessed earlier, we were stymied with a four-three vote I believe it was. And to have any official action we are required to have a super majority of five, yeah, because there are actually nine members, total members, on the Commission. So no action was taken with that vote. The reason for the recess was to determine, first of all, when the 90-day period ends. And for the public's information, we do have Planning Commission rules that we need to abide by; and they do state that we need to make a decision within 90 days or, you know, "x" happens. Okay? And so I think we're satisfied now that we've determined when that 90-day period would end. For the public's information also, this Commission will be splitting into two Commissions, one for east and one for west, come April 1st. So that presents some other logistical issues. Therefore, the recommendation by the Chair right now is that we continue this, since we're unable to make a decision at this meeting, to the March 20th meeting that is I believed scheduled to be held at the Sheraton, Marriott, the Marriott, right?

DARROW: Correct.

WATANABE: At the Marriott.

DARROW: One thirty p.m.

WATANABE: It was at 1:30?

DARROW: Correct.

HAYASHI: The regular agenda item starts at 1:30. That's at the Waikoloa Marriott. However, this, if we were to continue this application it would be some time after that. I just wanted to make it clear.

WATANABE: Yeah.

HAYASHI: So that these people don't come up at 1:30.

WATANABE: At 1:30, okay, okay. At any rate it will be at the Waikoloa Marriott on the 20th, that's the recommendation. Cause that would be the closest meeting, yeah. And with that I would entertain a motion from any one of the Commissioners regarding continuing this matter.

ALAMEDA: Mr. Chair?

WATANABE: Mr. Alameda.

ALAMEDA: Thank you. I move that this agenda item be moved to the, continued to the next meeting at Waikoloa.

WATANABE: Right.

ALAMEDA: What's the date on that?

WATANABE: March 20th.

ALAMEDA: March 20th.

WATANABE: Do we have a second on that?

WOODWARD: Second.

WATANABE: Okay.

WOODWARD: Although actually I believe this is at your discretion. But, anyway, if you want to make a motion on that -.

WATANABE: Yeah, okay. Any discussion on this? All those in favor of moving it to the Waikoloa meeting say aye?

COMMISSIONERS: Aye.

WATANABE: Any opposed? Okay, since, it's decided then that we will move that on to the March 20th meeting at the Waikoloa Marriott. Mr. Domingo?

DOMINGO: I'd just like to point out, Mr. Chairman, that when you think about the residents being able to go there for the meeting, we don't have any choice because the next meeting is scheduled for the 20th, unless we bring the meeting here specifically for this particular issue.

WATANABE: Right. That would be pretty difficult because -.

DOMINGO: Yeah, I understand.

WATANABE: Yeah, and we already have had two meetings here on this item. So, you know, it is unfinished business. To that end I think the public has had their opportunity to comment. Yeah? Okay, with that then -.

NOMURA: Can I ask a question?

WATANABE: Yes, Ma'am.

DARROW: Can you go to the mike please. Thank you.

WATANABE: Yeah. Ms. Nomura.

NOMURA: Sorry. But I'm confused. As I said the last time, this is all new to me. So

I'm little confused about your procedures and things. The motion on the table was to accept, and you didn't have the quorum to accept. So that does not defeat that motion?

WATANABE: No.

NOMURA: No. Okay. Also I need to confirm, the last time that we met on the 15th of January, at that point I think it was also mentioned that there wasn't going to be a quorum or whatever, and that they were going to allow the company additional time to provide information; and that was fine, you know, as far as that. So there was a continuance till today. So now the continuance is because of -?

WATANABE: Because we are unable to attain five votes for or against. That -.

NOMURA: And what happens -? Okay -.

WATANABE: Yes?

NOMURA: And what happens if you don't attain five votes for or against at the next session?

WATANABE: Then the rules specify the action after that. And you may not like this answer but -.

NOMURA: I know I'm not going to like it but say it anyway because, you know, -.

WATANABE: Yeah, what the rules specify within the Planning Commission's rules, yeah, are that if we cannot attain a majority vote one way or the other on a use permit now, yeah, the rules differ for whether it's a special purpose permit or a zoning changes, etc. yeah, but on a use permit the rules state that it's automatically approved. So we also looked at State law because State law could potentially preempt County law, in fact typically it would, yeah; and State law also indicates that if you cannot obtain a decision then it's automatically approved. So the rules in both situations, both County and State, say if you cannot attain a decision, yeah, then it's automatically approved, both State and local. That would be the governing laws, period. So we will try our best to see if we cannot get a majority vote one way or the other come the 20th. And the reason we're pushing for the 20th again, like I stated, is because, well, for one thing we've heard it twice here. Typically we try to come back to the place that is closest to the affected area, but we run into the 90-day rule which is another problem, yeah. So we're trying to satisfy all of the rules; and that's the issue now. So the best that we can do to accommodate this would be to hold that, continue the meeting until March 20th, which would satisfy the 90-day rule, yeah, and also try and reach some type of -.

NOMURA: Agreement among yourselves -?

WATANABE: Right, right, right.

NOMURA: As to whether you're for it or against?

WATANABE: Because the rules are very clear that if we cannot attain five votes one direction or the other, no decision is made.

NOMURA: Okay, and what is the current decision or the voting now?

WATANABE: Four-three.

NOMURA: Four for approval and three not to approve?

WATANABE: Right. And if you made a separate motion would be the other way, right - ?

NOMURA: Okay.

WATANABE: Three-four.

NOMURA: So that is seven all together?

WATANABE: Yes.

NOMURA: So how many Commission Members are missing at this point?

WATANABE: Technically two but one position is not filled, yeah. And to be honest with you it's going to be even more difficult on the 20th because Mr. Alameda, as we stated before the meeting started, will not be able to attend on the 20th. So we will be then down to six.

NOMURA: Total?

WATANABE: Yeah.

NOMURA: And so, oh, sorry, but you voted yes so, you know, that's -.

ALAMEDA: Yes, I'm not going to help any with you -.

NOMURA: Yeah. So you'll bring it down to about -.

HOUSEL: Three-three.

NOMURA: Three to three if everybody votes the same way, right?

WATANABE: Yeah.

NOMURA: Three to three. But there is one Commission Member that is not here today, so you might be still in the same situation. And that's, what you're telling me is that if that's the -.

WATANABE: It's likely that we will be, if no one changes their mind.

NOMURA: And then it would get approved and the tower will be built, regardless of what the residents feel on a technicality on the voting thing, correct? That's what, I need to go back -.

GONZALEZ: Okay, wait.

NOMURA: And tell these people what's going to happen.

GONZALEZ: Okay, okay, yeah, so right now we're in the realm of speculation. And you can speculate any way you want whether people are going to change their minds. People are going to change their minds, people might not change their minds. According to the rules no official action was taken today because they need five votes for official action. So automatically it has to carry over to the next meeting where it can get some kind of an official action. That's the process. So today it was a four-three vote for, they need five votes for it to be official action. At the next meeting depending on how people vote, there may be official action, there may not be.

NOMURA: Okay.

GONZALEZ: We cannot speculate on what's going to happen. Okay?

NOMURA: Oh yeah, yeah. It depends on what they're convinced on -. But I need to go back to my community and let them know because they will be contacting me to find out what the final decision was, cause we assumed a final decision would be made today because the continuance was done the last time -.

WATANABE: Yeah -.

NOMURA: For the company's sake.

WATANABE: But, so what you can tell them definitely is no decision was made because it was a split vote.

NOMURA: And then the next time it's going to be held in Waikoloa, so -?

WATANABE: Right.

NOMURA: If they want to go and give testimony they'll have to be there?

WATANABE: Right.

NOMURA: Okay, okay. Or they have to call the ones that said, yes, right, and try and convince you, is that -?

WATANABE: Typically we don't discuss the issues outside of the Planning Commission meeting because we also do have the Sunshine Rule which prevents us from discussing amongst each other -.

NOMURA: Between.

WATANABE: And trying to -.

NOMURA: Resolve.

WATANABE: Resolve the whole -. So to be honest with you I didn't know where anybody was going to vote this morning, yeah. You know, again, we're trying to play it by the rules. And that's, you know, so we, to be honest with you, we would not likely entertain phone calls from, you know -.

NOMURA: Or emails or whatever?

WATANABE: Yeah, yeah.

NOMURA: So I should just advise them?

WATANABE: Yeah.

NOMURA: Because they will ask, they will ask.

WATANABE: Well, where we accept, where we accept testimony and evidence is during the hearing, in front of the public's view, to comply with the Sunshine Law.

NOMURA: Okay.

WATANABE: Okay.

NOMURA: May I ask just one more question because I have the list of names there.

WATANABE: That's entered into the record.

NOMURA: Yes. Can they also come and testify the next time too, even if their names are there saying what they -?

WATANABE: We don't prevent people from testifying.

NOMURA: Oh, okay, so they're free to testify.

WATANABE: What I will caution you though is that we will limit testimony.

NOMURA: Oh, yeah, yeah.

WATANABE: In other words, if there are, you know, like 100 people we're not going to sit there -.

NOMURA: No.

WATANABE: For one hour on one person. Yeah?

NOMURA: No. I'm sorry. These people, these people are working, they have obligations here.

WATANABE: Yeah, and it's up to them. We don't -.

NOMURA: So if anybody wants to?

WATANABE: We do not prevent the public from testifying.

NOMURA: Okay, good.

WATANABE: We just limit the time you have to testify. Okay?

NOMURA: Okay, that's fine. Thank you very much.

WATANABE: Okay.

The discussion ended at 11:26 a.m.

A T T E S T:

Respectfully submitted,

Rodney Watanabe, Chairman
Planning Commission

Noriko Sauer, West Hawaii Secretary