

PLANNING COMMISSION  
COUNTY OF HAWAI'I

HEARING TRANSCRIPT  
MARCH 20, 2009

A regularly advertised hearing on the application of **T-MOBILE WEST CORPORATION (USE 08-14)** was called to order at 3:03 p.m. in the Waikoloa Beach Marriott Hotel, Ali'i III Room, 69-275 Waikoloa Drive, Waikoloa, Hawai'i, with Vice Chair Rell Woodward presiding.

PRESENT: Rell Woodward  
Lani Bowman  
Takashi Domingo  
Frederic Housel  
Shelly Ogata  
Rodney Watanabe

ABSENT & EXCUSED: Andrew Iwashita

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

And nine people from the public in attendance

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

Action on an application for a 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, Hawai'i, TMK: 1-7-6: portion of 31.

WOODWARD: It is three o'clock, so we can go on to the next and final item, which is an added agenda item, the continuing, continuing, continuing item. The applicant is T-Mobile West Corporation, an application for a Use Permit to allow the construction of a 150-foot monopole telecommunication tower and associated equipment on approximately 900 square feet of land. The property is on the site of the Kurtistown Assembly of God Church – and I facetiously asked them if they were trying to get better communication with God, but that was just my thing. Anyway, this is I think the third, or at least the third time we've heard this. Let me explain to you. This is a little bit different. This is a Use Permit. It takes five votes to decide it one way or the other. We've had no decision the last times that we voted on this. If it comes to no decision today, then it is de facto approved. Okay? So if there are not five votes one way or the other, according to Statute, this Use Permit will be approved. So, I just want you to be aware of that. Okay, Jeff, or whoever, you are on.

DARROW: Thank you, Mr. Chairman. As you had mentioned, this is an action meeting. Just to clarify, at our last meeting there was a motion to approve, which did not pass, four to three votes. Since our last meeting the Planning Department has received numerous letters as well as a letter from Council Member J Yoshimoto requesting for a continuance of today's hearing.

WOODWARD: Let me ask our Counsel, since he has been very quiet today, whether we can do that, the continuance. Evidently, the Chair of County Council has asked for a continuance. Can we do that?

GONZALEZ: Well, you can continue it, but if your next meeting date falls beyond the 90 days where action is supposed to take place, then it's going to be an automatic approval, because by law, Hawai'i Revised Statutes 91-13.5, you are supposed to make a decision to approve or not to approve within 90 days. The 90 days is established by your own Rules; if you are unable to do so, the application shall be deemed approved.

WOODWARD: And we are almost at 90 days, are we not?

DARROW: Correct. Our date that we were beginning from is December 24<sup>th</sup>, so March 24<sup>th</sup> would be the 90-day deadline.

WOODWARD: Let's see, four days. Well, it isn't going to happen then, is it? So it's, you know, it's up or down today, and if we don't make a decision, the Use Permit is approved. That's just the Statute. That's the way the cookie crumbles. Okay. Jeff?

WATANABE: Mr. Chair?

WOODWARD: Yes, sir.

WATANABE: Jeff, I wonder if you could go back to the – I have the transcript, but we did have, I believe, a revised condition in that motion with regard to the building of the monopole as far as design is concerned and approval by the Planning Director – and I was wondering if you could re-read that, please.

DARROW: Sure. This was going to be an addition to our final plan approval condition, which would state, "The tower shall be painted in a manner to blend with the surrounding area, meeting with the approval of the Planning Director."

WATANABE: Thank you. With that, Mr. Chair, if I might?

WOODWARD: Yes, sir.

WATANABE: I move that Use Permit Application -.

WOODWARD: Well, we have one public testifier, and I've consulted with our Corporation Counsel, and he tells me that we ought to conduct this in the usual fashion where we

allow the Planning Department to re-present the information, allow the applicant to present their case and then any public testifiers. So it isn't quite that easy.

WATANABE: I'll hold off.

WOODWARD: Okay? I mean -. So with that being said, Jeff, why don't you give us a synopsis on this?

DARROW: Well, there is no new information from our last -. Did you want me to still go ahead and give a brief presentation, or -?

WOODWARD: Does anybody need it? I'm sure you've all read -. And this is something that is important; I want to make sure that all the Commissioners have read the records, files and previous minutes, prior to coming to their decision. And if that's the case and you don't need the rehash, please say aye.

COMMISSIONERS: Aye.

WOODWARD: All opposed? Very good. Okay. So I don't think we need that. Then if the applicant would like to make a statement, we'll open to that. And then we'll allow public testimony. We have one person signed up to testify from the public. Is the applicant here? Okay, please come up, have a seat.

HAYASHI: Mr. Chair, I just want to remind the Commission that the hearing is already closed. So I don't know whether you want to bring back the applicant to present new evidence or new information; otherwise, you would have to reopen the hearing.

WOODWARD: Okay. Let me throw this back to Brandon then, because I talked to him about this before. All right, Brandon, you are on.

GONZALEZ: Yes, sorry, Mr. Chair, for not being more clear earlier. The public has a right to testify on any matter that is on the agenda. So when I informed the Chairman that if people signed up to testify, they had to go, and let them talk even if they talked before; that's what I meant. The Department doesn't have to re-give any more information, the applicant doesn't have to rehash any information, because public hearing on this matter was closed. But according to Sunshine Law, we should let people that want to give public testimony on the agenda items opportunity to do so.

WOODWARD: Okay. Well, I was a little confused, but sometimes I am a little confused. I'm sorry. Bye. All right. We have one person signed up from the public to testify: Damien Shrinski. If you'd like to come up and take a seat. All right. First, I've got to swear you in. If you raise your right hand. Do you swear or affirm to tell the truth today before the County of Hawai'i Planning Commission?

SHRINSKI: I do.

WOODWARD: Very good. Now, if you give us your name and address, and then you may begin your testimony.

SHRINSKI: My name is Damien Shrinski. My physical address is 17-550 Volcano Road, Kurtistown, Hawai'i, 96760. I don't mean to -. I appreciate the opportunity to be here, and I know it's late. Good afternoon

I wanted to add a few more thoughts to what was spoken at the last meeting. And I know that we don't need rehashing of what, a lot of the facts of the cell phone tower. But as the last meeting was going on, one of the things that struck me was community support. So since the last meeting we have put petitions in several different areas in Kurtistown, and walked around, and we've gathered a little over 200 names. I'm not only representing citizens within the area of Kurtistown and surrounding areas of Kea'au and Mountain View, we have also got a few endorsements from businesses, local businesses in the area as well that would support such a tower. Some of those would include Gas 76, Benjamin Alonzo, we've had support from J Hara Store, which is a large business in that area respectively, and different subcontractors and orchid farms in the area, stating that they would support a cell phone tower built on that property being that it would benefit their business.

As I've been reading some of the letters that have been sent from the public in opposition to this Use Permit, my biggest response to that is that – I sent a letter a few days ago, about a week ago, so I'm not going to read complete analogy of the contents of that – but I feel that the cool thing about our government is that it's fluid and it's to change with the needs of the people, which is why there's vetoes and why there's meetings like this. When the zoning was zoned Residential, that was the purpose at that time. I understand that that was a need. But in that day there weren't as many people, there weren't as many cars, and cell phones weren't even in use. And laws should change as the needs of people should change. So I think one of the biggest reasons that I'm in approval of this is because the needs of the community, both residential and commercial, are in need of this. And as this petition was passed out, I got several different calls, several different comments about how it would help and how it would be beneficial to the community as a whole.

Secondly, and hopefully lastly, there're, in some of the letters and some of the comments that were made in opposition, there was a concern that anything that was spoken by me or anyone from the congregation of Kurtistown Assembly of God might be slightly biased, being that we receive some kind of lease from that. And I would say that that's the furthest from the truth. My salary is fixed; I don't get anything extra because of this. The congregation, they don't receive anything extra from this. This is going towards back into the community. The hundreds of people that benefit from our church in food in the community, they'll benefit. The hundreds of families that benefit from our outreaches, and not necessarily outreaches, but we have alternatives to Halloween and alternatives to Easter, so that families don't have to travel all the way to Hilo, all the way to Volcano; they will benefit. So when we see a tower such as this, we see it as an opportunity to benefit the community in multi-faceted ways. Thank you.

WOODWARD: Thank you very much for your testimony. Do we have any questions from my fellow Commissioners? Seeing none, you may be seated, sir. Thank you very much. We do appreciate your coming.

SHRINSKI: Thank you.

WOODWARD: All right. I guess it's time to entertain a motion.

WATANABE: Mr. Chair?

WOODWARD: Yes, Chairman Watanabe.

WATANABE: Yes. Let me try this again. I move to approve Use Permit Application 08-000014 inclusive of a new Condition 6 that was previously read by Mr. Darrow and the renumbering of the existing Condition 6 to Condition 7.

DARROW: If it's okay with Commissioner Watanabe, if we could put the wording on the end of Condition 2 -.

WATANABE: Oh, okay, that would be fine with me. So there would be no renumbering then. I would just put the revised Condition 2.

DARROW: Thank you.

WOODWARD: Do we have a second?

HOUSEL: I'll second.

WOODWARD: All right, thank you. Discussion?

BOWMAN: I just have one comment. I will vote for this, and I appreciate the applicant, you know, giving more information. As you recall, my concern was just, were there other better locations. And obviously, too, because of the support from the community – that is really a help. So thank you.

WOODWARD: Any further discussion? Mr. Darrow?

DARROW: Thank you, Mr. Chairman. Just for clarification, Commissioner Housel, were you the Commissioner who seconded?

HOUSEL: Yes.

DARROW: Okay, thank you. With that, I'll take the roll call. Commissioner Watanabe?

WATANABE: Aye.

DARROW: Commissioner Housel?

HOUSEL: Aye.

DARROW: Commissioner Bowman?

BOWMAN: Aye.

DARROW: Commissioner Domingo?

DOMINGO: No.

DARROW: Commissioner Ogata?

OGATA: No.

DARROW: And Mr. Chairman?

WOODWARD: Aye.

DARROW: The motion does not pass, four to two.

WOODWARD: All right. I've just been advised by Brandon here, our Corporation Counsel, that now we need a motion the other way to disapprove, vote it down. So would anybody like to make that motion?

DOMINGO: I will, Mr. Chairman. I will move that we disapprove the application.

WOODWARD: All right. Do we have a second?

OGATA: Second.

WOODWARD: All right. Any further discussion? Now, this, again, is the reverse vote of the one we just took; so if you voted "Yes" the first time and you still feel the same way, you vote "No" this time, okay? I just want to make this clear. And what's going to happen is if we don't get five one way or the other, it's going through, okay? That's just the way it works. Okay, Mr. Darrow, you are on.

DARROW: Thank you, Mr. Chairman. The motion before us is to deny this application. With that, I'll take the roll. Commissioner Domingo?

DOMINGO: Aye.

DARROW: Commissioner Ogata?

OGATA: Aye.

DARROW: Commissioner Bowman?

BOWMAN: No.

DARROW: Commissioner Housel?

HOUSEL: No.

DARROW: Commissioner Watanabe?

WATANABE: Nay.

DARROW: And Mr. Chairman?

WOODWARD: No.

DARROW: The motion does not pass, two to four.

WOODWARD: All right. Well, we have reached a non-decision, and a non-decision means that the Use Permit will be granted. That's just the way it works.

The discussion ended at 3:20 p.m.

Respectfully submitted,

Noriko Sauer, West Hawai'i Secretary

A T T E S T:

Rell Woodward, Vice Chair  
Planning Commission