

## County of Hawai'i

### PLANNING COMMISSION

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March 17, 2008

Coral Wireless, LLC dba Mobi PCS  
Pacific Guardian Center – Makai Tower  
733 Bishop Street, Suite 1200  
Honolulu, HI 96813

Gentlemen:

Use Permit Application (USE 07-000011)

Applicant: Coral Wireless LLC dba Mobi PCS

Request: To Allow the Development of Telecommunication Antennas and  
Ground Equipment on an Existing Building

Tax Map Key: 2-1-17:20

The Planning Commission at its duly held public hearing on March 6, 2008, voted to approve the above-referenced application to allow the development of telecommunication antennas and ground equipment on the Mauna Loa Shores Condominium building situated within the Single Family Residential 10,000 square foot (RS-10) zoned district. The Mauna Loa Shores Condominium is located along the north side of Kalaniana'ole Street, Waiakea, Keaukaha, South Hilo, Hawaii.

Approval of this request is based on the following:

The applicant is requesting a Use Permit to allow the development of telecommunication antennas and ground equipment on an existing building within the Single-Family Residential (RS-10) zoned district. The antennas and equipment will be constructed on and within an 8-story, 84-unit residential condominium complex called Mauna Loa Shores. The improvements will include a total of nine (9) 6-foot high panel antennas. Three (3) antennas will be mounted on three (3) sides of the elevator tower. The antennas and other visible parts will not go above the height of the building and will be painted to match the existing color of the building. These are located next to six (6) existing panel antennas allowed previously for Western PCS II (currently T Mobile). There will be appurtenant equipment located on the ground floor, which includes the base transmitter cabinet and power protection cabinet. The cabinets will be attached by a raised metal frame to allow water to flow underneath in case of flooding. Additionally,

there will be coax cables, power cables and telco cables to provide power and transmit the signal to the antennas.

In considering a Use Permit for any proposed use, Rule 7 of the Planning Commission relating to Use Permits, requires that such action conform to the following guidelines:

- A. The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan;
- B. The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties; and
- C. The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure.

The proposed use meets the guidelines for approval of a Use Permit, for the reasons outlined below:

The granting of the proposed use shall be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses, as well as consistency with the goals and policies of the General Plan. According to the Zoning Code, Single Family Residential districts "provide for lower or low and medium density residential use, for urban and suburban family life. It applies to areas having facilities, and to carry out the above stated purpose." Within the Zoning Code, telecommunication antennas and towers can be permitted within a Single-Family Residential zoned district if a Use Permit is approved for the use by the Planning Commission.

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The General Plan designation for this property is mainly Low Density Urban, which allows for single-family residential uses, ancillary community and public uses, and neighborhood and convenience-type commercial uses. Allowable uses within these areas, with a Use Permit, may include telecommunication facilities that serve the residents in the area. The request

complements and is consistent with the Land Use, Economic, and Public Utilities elements of the General Plan. Based on the above, the request is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan.

The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties. The subject property is the location of the Mauna Loa Shores Condominium complex, which is situated along the north (makai) side of the Kalaniana'ole Street just east of the Carlsmith Beach Park in Keaukaha. Mauna Loa Shores is a 10-story condominium complex. Surrounding properties are zoned RS-10, RS-15 and Open. The surrounding area is characterized by a mix of beach parks, vacant parcels and single-family residences. The 6-foot antennas will be attached to the existing building and will not go above the height of the structure. Additionally, the antennas will be painted the same color to match the existing building to further minimize the visual impact of the antennas to surrounding properties. It is not anticipated that the approval of the telecommunication antennas will have a major negative impact in the community.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, school improvements, police and fire protection and other related infrastructure. The requested use will not burden public agencies to provide additional services. Water and sewer are not needed for the antennas. Only telephone and electricity is required for the requested use, which is available to the project site. Access to the project site is from Kalaniana'ole Street, which is a County owned and maintained roadway with an approximate 22-foot pavement within a 50-foot wide right-of-way. Therefore, the requested use will not burden public agencies to provide additional services.

The proposed request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: As the proposed request will not involve any ground alteration activities and will be added on to an existing building, no archaeological assessment or inventory survey was conducted for the property.

The valuable cultural, historical, and natural resources found in the project area: The likelihood of any rare or endangered species, habitat of flora or fauna or any archaeological features is remote on the property based on urbanization and development of the existing condominium complex.

Possible adverse effect or impairment of valued resources: As the proposed request will not involve any ground alteration activities, Hawaiian gathering and fishing rights is not an issue. Additionally, the property consists of a condominium complex that has been in existence since 1971.

Feasible actions to protect native Hawaiian rights. To the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights and no action is necessary to protect these rights.

Based on the above, the request to allow the development of telecommunication antennas and ground equipment on an existing building within the Single-Family Residential (RS-10) zoned district is approved.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall comply with all of the stated conditions of approval.
2. The applicant shall comply with all conditions of Special Management Area Minor Permit No. 07-000063.
3. Construction of the proposed development shall be completed within five (5) years from the effective date this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-71(c)(3), 25-2-72, 25-2-74 and 25-4-12, Chapter 25 (Zoning Code), Hawaii County Code. The antenna plans shall be stamped by a structural engineer.
4. Co-location or any expansion of the antennas shall be allowed within the parameters of the building height and envelope as represented.
5. Within 120 days of the permanent abandonment of the antennas, the applicant shall remove the antennas and accessory structures. The applicant shall provide written notification to the Planning Director of such removal.
6. The applicant shall comply with Chapter 27 - Flood Control, of the Hawaii County Code.
7. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including the Federal Aviation Administration and Federal Communications Commission.

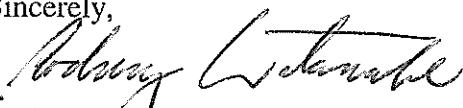
8. An initial extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:
  - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
  - B. Granting of the time extension would not be contrary to the General Plan or the Zoning Code.
  - C. Granting of the extension would not be contrary to the original reasons for the granting of the permit.
  - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

Should any of the conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate the revocation of the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

  
Rodney Watanabe, Chairman  
Planning Commission

Lcoralwirelessuse07-000011PC

cc: Mr. Kevin Turner, KLP Group  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
DOT-Highways, Honolulu