

**COUNTY OF HAWAII PLANNING DEPARTMENT
RECOMMENDATION REPORT**

**CROWN CASTLE
USE PERMIT APPLICATION (PL-USE-2024-000029)**

Upon review of the request against the guidelines for approving a Use Permit, the Planning Director recommends that a **Use Permit to allow the replacement of an existing 73-foot, 6-inch-tall wood pole telecommunication tower with a new 73-foot, 6-inch-tall steel monopole and equipment compound within an 872-square foot portion of a larger 23.651-acre parcel, be approved by the Planning Commission.** The Planning Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. This approval is based on the following findings:

The applicant, Crown Castle, is seeking a Use Permit to allow the construction of a new 73-foot, 6-inch-tall steel monopole on an 872-square foot portion of a larger 23.651-acre parcel. The facility will also include 4 panel antennas, 4 remote radio heads, and 2 hybrid cables attached to the pole, with 1 new site support cabinet, 1 battery cabinet, and 1 Alternative Access Vendor cabinet at ground-level and the removal of one wood pole, one baseband unit (BBU) cabinet, two remote radio units (RRU), two remote radio units, and two triplexers. Three (3) proposed equipment cabinets will be installed on three existing concrete pads. The four (4) additional antennas will be added at a top height of 75 feet. Ground disturbance will be limited to the installation of the new steel monopole within the existing 30-foot by 29-foot fenced compound lease area for the wireless communication facility. The tower will be constructed of structural galvanized steel and built to withstand a 174-mph wind load and will have the ability to accommodate other carriers. This new tower will replace the existing 73-foot, 6-inch-tall wood telecommunication pole, which was constructed in 1997 but is now structurally deficient to accommodate equipment upgrades. The applicant is requesting approval to upgrade the existing tower with one that does not substantially change the physical dimensions of such tower or base station. The proposed facility would be unmanned, and maintenance and repair activities will be performed by a technician on a periodic basis.

According to the applicant, their tenant T-Mobile has been operating from this facility and desires to upgrade their equipment. The physical condition of the existing

tower is poor and will not support the tenant's requirements for equipment upgrade. Moreover, the existing pole is made of wood and is over twenty-five years old. Age and environmental conditions make the pole incapable of structurally supporting the equipment needed to provide improved wireless services in the surrounding area. The objective of this project is to provide stronger wireless infrastructure to serve the surrounding community. This would mean improved coverage and service quality within Kaloko Mauka and Kalaoa. This would also allow a better signal hand-off to existing facilities located along Highways 11 and 19.

While the existing tower consists of one anchor tenant (T-Mobile), the proposed replacement tower will allow the potential for future co-location by other carriers.

T-Mobile currently operates a wireless facility at the subject location with antennas at a height of 73 feet and 64 feet on Crown Castle's existing 73-foot, 6-inch-tall wood pole tower. With the replacement of the existing pole with the proposed 73-foot, 6-inch-tall steel monopole, T-Mobile's upgraded antennas will reach an overall height of 75 feet. The height will allow clean handoff of signals to and from nearby existing T-Mobile telecommunication sites.

The Telecommunications Act of 1996, Section 704, as amended, recognizes the absence of health hazards from wireless radio wave transmissions and prohibits local authorities from regulating the placement of such towers based on environmental effects, so long as the towers comply with the Federal Communication Commission's (FCC) guidelines. The applicant and subsequent tenant telecommunication service providers will comply with all Federal Communications Commission (FCC) and Federal Aviation Administration (FAA) rules.

The facility was initially developed by Western PCS II Corporation, which is now T-Mobile and received Plan Approval from the Planning Department on April 2, 1997. Pursuant to Section 25-4-61(a) of the Hawai'i County Code, the existing facility is considered a nonconforming use.

Prior to 2007, Hawai'i County required a Special Permit for the construction and operation of wireless communication antennas and towers in the State Land Use Agricultural District. However, in 2007, the Hawai'i State Legislature adopted Act 171, allowing wireless communication antennas and towers as a permitted use in the State

Land Use Agricultural District with no Special Permit required by the County Planning Commission. In response, in 2010, the Hawai'i County Council adopted Ordinance 10-17, which allows a telecommunication antenna or tower in the County Agricultural district if a Use Permit is first granted by the County Planning Commission. Per the County of Hawai'i's response to a Request for Zoning Verification dated June 13, 2013, the replacement of the existing telecommunication pole and its support facility would require the issuance of a Use Permit from the Planning Commission.

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

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

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

The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code and the County General Plan. The Use Permit process allows for the evaluation of a proposed project on a case-by-case basis in terms of infrastructure, impacts on surrounding properties, and consistency with the goals and policies of the County General Plan. The Zoning Code permits telecommunication antennas and towers within the Agricultural zoning district, provided a Use Permit is approved 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 established the basic urban

and non-urban form for areas within the County. The General Plan designation for this property is Extensive Agriculture, which includes lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine till ability and climate. Allowable uses within these areas may include community and public facilities. Telecommunication facilities may be allowed in this area with the approval of a Use Permit from the Planning Commission.

Telecommunication technology has evolved dramatically over the past decade, making wireless communication more affordable and accessible. However, the placement of telecommunication towers, often in prominent locations to ensure clear signal transmission, can raise concerns about visual impacts. The General Plan emphasizes that scenic views and vistas should be preserved when designing facilities such as telecommunication towers.

A standard in the Public Utilities element of the General Plan states that in the development and placement of telephone facilities, such as lines, telecommunications and cellular towers, poles, and substations, the design of the facilities shall consider the existing environment, and scenic view and vistas shall be considered and preserved where possible. While the 75-foot-tall telecommunication tower will be visible from surrounding properties at high elevations, the impact to these properties should be minimal as this will be a replacement to an existing tower that has been there for over 25 years. The tower will not be visible from Māmalahoa Highway and given the distance of the proposed telecommunication tower from the highway and the shoreline, the scale of the visual impacts will be limited due to the tower's relationship to the forested areas and ranch lands that predominate at the subject elevation. There are no General Plan designated natural beauty sites or vistas located in the vicinity of the subject property.

The General Plan discusses the importance of protecting native/endangered species in order to maintain an ecological balance for the well-being of the island. According to the applicant, the parcel is vegetated with grass and a sparse grove of 50-foot-tall trees. While the application does not reference any listed or endangered animal species, the surrounding area includes the Pu'u Wa'awa'a Forest Bird Sanctuary that may be home to species such as the Hawaiian Owl (Pueo), Hawaiian Hawk ('Io), Hawaiian

Honeycreepers (I‘iwi and ‘Apapane), Hawaiian Goose (Nēnē), and the Hawaiian Hoary Bat (‘Ōpe‘ape‘a). Based on best management practices for mitigating potential impacts, mitigation conditions will be applied to the permit to avoid or minimize impacts on these species.

Based on the preceding, the request is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County of Hawai‘i General Plan.

The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community’s character or to the surrounding properties. The proposed facility will be located within the existing 872-square foot lease area of the parcel. There is a residence located near the parcel’s north boundary line. The property is zoned A-20A and is not fully developed. The existing facility is enclosed by an existing 6-foot-tall chain link fence with locked gates to control access to the facility. The existing site has been completely disturbed and graded during the original construction over 25 years ago.

Properties situated immediately to the north, south, east, and west are zoned Agricultural (A-20a). Immediate surrounding properties are characterized by forested areas with scattered farm dwellings and some agricultural uses.

According to the applicant, the facility does not generate noise and the operation of the antenna does not present health hazards or cause interference with other electronic appliances and equipment. No traffic impact is expected once construction is completed, as service personnel will visit the site only on an as needed basis.

No exterior lighting is proposed on the tower and therefore will not impact the surrounding community. It is anticipated that the upgrade of the telecommunication facility will be beneficial to the surrounding community and will increase wireless coverage and improved services throughout Kaloko Mauka and nearby communities, as well as for those who travel along Hawai‘i Belt Road. The upgraded facility will also improve signal handoffs to existing infrastructure servicing Highways 11 and 19.

Therefore, based on the above, the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community’s character or to surrounding properties.

The granting of the proposed use will not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, school improvements, police and fire protection and other related infrastructure. Access to the facility will be off Kaloko Drive to Huehue Street to an existing, private gravel driveway on subject property. Electricity is provided via overhead utility poles. No public expenditures for road, street, sewer, water, drainage, school, or increased police or fire protection are required. Finally, the applicant and/or any telecommunication service provider tenant will be required to meet all applicable agency requirements, including the Federal Communications Commission and the Federal Aviation Administration.

In addition to the criteria for granting a Use Permit, the request is not contrary to Chapter 205A, Hawai‘i Revised Statutes, relating to Coastal Zone Management Area. The subject property is located about 8 miles from the nearest shoreline and is not located in the Special Management Area, and therefore will not be impacted by coastal hazards and beach erosion. There are no identified coastal recreational resources, coastal scenic and open space resources, coastal ecosystems, and beach or marine resources in the area, thus the proposed request will not adversely impact coastal resources. Additionally, there is no record of a designated public access to the shoreline or mountain areas that traverses the property, and no gathering or other traditional practices have been documented.

The request will not have a significant adverse impact to traditional and customary Hawaiian rights. In view of the Hawai‘i 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: A cultural resources review and field inspection was completed in the Historic Properties Review and Assessment which was prepared by ASM, dated March 22, 2024 and was included in the report. Upon review of this report, in a letter dated May 17, 2024, the Department of Land and Natural Resources-State Historic Preservation Division (SHPD) concurred that no historic properties will be affected by the proposed project.

The valued cultural, historical, and natural resources found in the area: The

review indicated that there were no significant sites located on the subject property as well as within the half-mile radius of the area of potential effects.

Possible adverse effect or impairment of valued resources: While it is unlikely that native plants or endangered species will be impacted, due to the development's existing footprint, mitigation measures will be implemented because of the property's proximity to a forest reserve.

Feasible actions to protect native Hawaiian rights: The Planning Department does not have record of cultural gathering taking place on the site. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights. An condition will be added requiring notification to the SHPD in the unlikely event cultural or historic resources are discovered on the property during construction activities.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA) among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or affected agencies.

Based on the above, it is recommended that the request to replace an existing 73-foot, 6-inch-tall wood telecommunication tower with a new 73-foot, 6-inch-tall steel monopole with related equipment be approved by the Planning Commission. Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns (“Applicant”) shall be responsible for complying with all stated conditions of approval.
2. Construction and operation of the telecommunication facility shall be conducted in a manner that is substantially representative of plans and details as contained within the Use Permit application accepted on September 12, 2024 and representations made to the Leeward Planning Commission.
3. To mitigate visual impacts the applicant shall maintain the existing landscaping to screen the facility and tower from public views along Huehue Street.
4. Construction of the telecommunication facility shall be completed within five (5) years from the effective date of this permit. Prior to construction, the Applicant shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Sections 25-2-71, 25-2-72, 25-2-73, 25-2-74 and 25-4-12, Chapter 25 (Zoning Code), Hawai‘i County Code. The monopole tower shall be located as shown in the Applicant’s site plan, submitted on September 12, 2024. Plans shall identify proposed structures, fire protection measures, access easements, fencing and related facilities associated with the use. The tower/antenna plans shall be stamped by a licensed structural engineer.
5. Prior to commencement of operation of the facility, the Applicant shall secure and finalize any building permits for the proposed use required by the Department of Public Works - Building Division.
6. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used in the permit area and woody vegetation over 15 feet in height shall not be disturbed, trimmed or removed during bat birthing and pup rearing season of June 1st to September 15th without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service (USFWS) if nests are found. Surveys shall be conducted by a qualified biologist.
7. To protect any Hawaiian hawks in the vicinity of the property, ground clearing, grubbing activities and construction shall not occur in the permit area during hawk breeding season of March 1st to September 30th without first conducting surveys for hawk nests and coordinating with USFWS if nests are found. Surveys shall be conducted by a qualified ornithologist and are only valid for 14 days. Ground

clearing or construction shall not occur within 1,600 feet of any active Hawaiian hawk nest during the breeding season. Regardless of the time of year, trimming or cutting trees containing a hawk nest is prohibited.

8. To minimize potential project impacts to the threatened Hawaiian goose (Nēnē), the Applicant shall implement the following applicable measures: Do not approach, feed or disturb Nēnē. If Nēnē are observed loafing or foraging within the project area during Nēnē breeding season (September through April), have a biologist familiar with the nesting behavior of Nēnē survey for nests in and around the project area prior to the resumption of any work, repeat surveys after any subsequent delay of work of three or more days (during which the birds may attempt to nest). Cease all work immediately and contact the US Fish and Wildlife Service for further guidance if a nest is discovered within a radius of 150 feet of proposed work, or a previously undiscovered nest is found within said radius after work begins. Nēnē are known to be present, post and implement reduced speed limits, and inform project personnel and contractors about the presence of endangered species on-site.
9. To protect the 'I'iwi, the applicant shall avoid conducting activities within the forest bird habitat that: 1) Promote the spread or survival of invasive species; 2) Increase mosquito populations or stagnant water habitat; 3) Increase wildfire threat to montane forest habitats; and 4) Remove tree cover during the peak breeding season between January 1 and June 30.
10. To protect any seabirds (Hawaiian petrels, Newell's shearwaters and band-rumped storm petrel) in the vicinity of the property, any lighting shall be fully shielded so that the bulb can only be seen from below bulb height. The lights shall be turned off when human activity is not occurring in the lighted area.

11. To prevent the spread of Rapid 'Ōhi'a Death, a survey of the proposed site shall be conducted two weeks prior to any tree cutting to determine if there are any infected 'ōhi'a trees. If infected 'ōhi'a are suspected at the site, the Applicant shall contact the appropriate agencies at UH-Hilo and USDA for further guidance. If 'ōhi'a trees will be cut during construction, the Applicant shall follow procedures as described by the College of Tropical Agriculture and Human Resources (CTAHR).
12. All development runoff shall be disposed of on site and shall not be direct toward any adjacent properties.
13. Co-location of antennas upon the proposed tower and the addition of related support and ground equipment is required within the parameters of the tower height and ground lease area as approved by the Planning Commission without amendment of this permit or further Plan Approval. Co-location beyond the parameters approved by this permit but that results in less than a 'substantial change' to the tower height and ground lease area, as defined by the Federal Communication Commission, is allowed without amendment of this permit, provided Plan Approval has been issued by the Planning Director for the co-location. Co-location that results in a 'substantial change' to the tower height and ground lease area, as defined by the Federal Communication Commission, requires an amendment of this permit.
14. Within 120 days of the permanent abandonment of the tower, the Applicant shall remove the tower and its antenna and accessory structures (including the equipment building and the fence), down to, but not including the concrete foundation. The Applicant shall immediately provide written notification to the Planning Director of the termination of the telecommunication tower and related improvements and the removal of all structures.
15. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work

shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.

16. The Applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements, including but not limited to, the Federal Aviation Administration and the Federal Communications Commission.
17. An initial extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the Applicant, successors or assigns, and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the General Plan or the Zoning Code.
 - C. Granting of the extension would not be contrary to the original reasons for the granting of the permit.
 - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
18. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke the permit.