

From: [Onaona P. Thoene](#)
To: [Planning WPC Testimony](#)
Cc: [Katherine A. Garson](#); [Patrick K. Wong](#)
Subject: WPC Meeting of March 5, 2026 - Testimony on Agenda Item No. 2 - Camacho Petition for Declaratory Order
Date: Tuesday, March 3, 2026 12:13:16 PM
Attachments: [2026-03-03 Verizon - WPC Testimony Agenda Item No. 2 \(Camacho Declaratory Order Petition\) \(final\).pdf](#)

Aloha,

Please see the attached testimony on Agenda Item No. 2. Let us know if you have any issues with the file.

Mahalo,
Onaona

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March 3, 2026

Via E-Mail to WPCtestimony@hawaiiicounty.gov

Louis Daniele III
Chair, Windward Planning Commission, County of Hawai'i
Aupuni Center, 101 Pauahi Street, Suite 2
Hilo, Hawai'i 96720

Re: Opposition of Cellco Partnership dba Verizon Wireless to
Brandy Camacho's Petition for Declaratory Order, Agenda Item No. 2,
Windward Planning Commission Meeting of March 5, 2026

Dear Chair Daniele, Vice Chair Perrin, and Members of the Windward Planning Commission
(the "**Commission**"):

This firm represents Cellco Partnership dba Verizon Wireless ("**Verizon**"). Verizon submits this testimony in opposition to Agenda Item No. 2, Petitioner Brandy Camacho's Petition for Declaratory Ruling Regarding Use Permit No. 15-000056 dated January 26, 2026 (the "**Petition**"). The Petition is an attempt by Petitioner to usurp the County of Hawai'i ("**County**") Planning Department and Planning Commission's authority to enforce permit conditions. There is no private right of action for Petitioner to force the County to enforce a permit condition. The Petition specifically asserts that the *building permit* for the Project, issued by the Department of Public Works ("**DPW**"), is void because an "access easement" was not recorded prior to the issuance the building permit, as required by Condition No. 3 of the *Use Permit*.

Because the issuance, validity, and any revocation of a building permit is outside of the Commission's jurisdiction, and because Petitioner does not have any right to enforce permit conditions, the Petition should be denied.

I. Background

Verizon is the original permittee under the Use Permit No. 15-000056 approved by the Commission on November 5, 2015 (the "**2015 Use Permit**"), which allows for the development of a telecommunication facility and related facilities within a 1,600 square-foot portion on a 2-acre parcel in Kea'au, Puna, Hawai'i (the "**Project**") on Tax Map Key ("**TMK**") No. (3) 1-5-017: 118 ("**Parcel 118**") owned by Hawai'i Pacific District Church of the Nazarene (the

"Church"). See Planning Department ("**PD**") Background Report, Ex. 3 (Use Permit No. 15-000056).

Verizon was also the original licensee under that certain a Land License Agreement (the "**Land License**") by which the Church granted Verizon a license to use a thirty-foot (30') by thirty-foot (30') area on Parcel 118 containing approximately 900 square feet ("**s.f.**") (the "**Premises**"), together with the non-exclusive right for ingress and egress over or along a right-of-way over and across Parcel 84 extending from 31st Avenue, to the Premises. A Memorandum of Land License Agreement dated December 3, 2018 was recorded on April 27, 2021 in the Office of the Assistant Registrar of the State of Hawai'i ("**Land Court**") as Document No. T-11439181. The Land License had an initial term of five (5) years, which would be "automatically extended for four (4) additional five (5) year terms unless LICENSEE terminates [the Land License] at the end of the then current term by giving LICENSOR written notice of the intent to terminate[.] Attachment 1 at §§ 3 & 4. If neither party provides notice to terminate the Land License at the end of that twenty-five (25) year period, the Land License provides for continuous and automatic five (5) year extension terms until terminated by the parties. *Id.* at § 6. Thus unless the Land License is terminated, the Land License continues in perpetuity.

On September 2, 2024, after receiving the Church's prior written consent pursuant to Section 22 of the Land License, Verizon assigned all of its right, title and interest as licensee under the Land License to Horizon Tower Limited Partnership III, a Kansas limited partnership, by Horizon Tower III, LLC, a Delaware limited liability company ("**Horizon**") by executing that certain Assignment and Assumption of Land License Agreement dated September 2, 2024.

Originally, access to the telecommunications facility was intended to be from 32nd Avenue and through the Church parking lot on Parcel 118. As design for the Project progressed, Verizon explored alternative access via 31st Avenue over TMK No. (3) 1-5-017: 084 ("**Parcel 84**"), a vacant lot also owned by the Church, so that access to the Project would not conflict with Church uses of Parcel 118. In response to a request from the Church to relocate access to the Project from 32nd Avenue over Parcel 118 to 31st Avenue over Parcel 84, Verizon filed an application to amend the 2015 Use Permit, which application also requested a 5-year time extension to develop the Project, an amendment to Condition No. 2, which required construction to be completed by November 19, 2020. Following a public hearing on January 8, 2020, the Commission approved the requested amendments. PD Background Report Ex. 8 (Amended Use permit approval); Attachment 2 (Jan. 8, 2020 Transcript).

The amended Use Permit was issued on January 21, 2020 (hereinafter, the "**Use Permit**"). PD Background Report Ex. 8. In approving the amendments to the 2015 Use Permit, pursuant to Condition No. 8, the Commission adopted the Planning Department's findings and recommendations and determined, among other things, that (1) "*the only change is the location of the proposed driveway access in order to create a safer environment for children playing on and around the playground equipment on Parcel 118*"; and (2) that the change in access location would not adversely affect surrounding properties. PD Background Report Ex. 5 at 2; Attachment 2 at 20-21 (Jan. 8, 2020 Transcript).

Additionally, to ensure that the Project and permittee would retain the benefit of access over Parcel 84, the Planning Director recommended that “a condition be added to the permit to ensure access is provided during the life of the telecommunication facility over Parcel 84, even if the parcel is sold to another owner by the landowner.” Attachment 2 at 20-21 (Jan. 8, 2020 Transcript). The Planning Director’s recommendation was included in the amended Use Permit as Condition No. 3:

3. The applicant shall execute and record an easement over Parcel 84 to provide access to the telecommunications site on parcel 118 *for the duration of the life of the telecommunication facility*. A copy of the recorded easement shall be provided to the Planning Department prior to issuance of a building permit for construction of the telecommunication facility.

PD Background Report Ex. 5 (emphasis added). Condition No. 3 provides the sole basis for the Petition, which was added solely for the benefit of the permit holder, is not required by statute, zoning ordinance, or any other County rule, and does not in any way affect Petitioner.

II. Opposition to Petition

The Petition should be denied because (1) the Commission does not have the authority to decide matters related to issuance, validity, or revocation of a ***building permit***, thus, such decisions are outside of the Commission's jurisdiction, and (2) Petitioner does not have a right to enforce permit conditions.

Petitioner asserts that the ***building permit*** for the Project, issued by DPW, is void because an "access easement" was not recorded prior to the issuance the building permit, as required by Condition No. 3 of the ***Use Permit***. Petitioner's "Proof of Breach" supporting her position is a December 8, 2025 email with Hawaiian Electric Light Company ("**HELCO**") regarding an unrelated HELCO easement. *See* PD Background Report Ex. 1 at 1, 4. As detailed above, Condition No. 3 of the Use Permit relates to the access rights over Parcel 84 granted to the developer/operator of the Project, not a utility easement to HELCO. *Compare* PD Background Report Ex. 8 at 2 (Condition No. 3) *with* Ex. 1 at 1.

As discussed above and in satisfaction of Condition No. 3 of the Use Permit, on April 27, 2021, a memorandum of the Land License was recorded in the Land Court. The Land License provides for access to the Project over Parcel 84 for so long as the Project is sited and operating on Parcel 118. The Land License directly addresses the Planning Commission's and Planning Department's expressed concerns that the Project applicant have perpetual access over Parcel 84 to the Project site. Additionally, a Grant of Easement dated January 22, 2026, recorded in the Land Court as Document No. T-13178213 on January 30, 2026, also provides Horizon with a perpetual access easement over Parcel 84. *See* PD Background Report, Ex. 29.

Nothing in Condition No. 3 of the Use Permit, the Hawai'i County Code, the County of Hawai'i Planning Commission Rules of Practice and Procedure ("**PC Rules**"), or any statute gives a private individual the right to challenge compliance with the Use Permit conditions and neither the Planning Department nor the Planning Commission have determined that a violation of Condition No. 3 exists.

Before the Commission can even consider whether there is a violation of the Use Permit, the County must first decide whether there is a violation of a permit condition, considering the intent of the condition. *See, e.g.,* PC Rules, Rule 7-11. Even if a violation is found, that does not render the Use Permit automatically void, and it certainly does not have any bearing on whether the building permit is void, as Petitioner contends. *See Maui Lani Neighbors, Inc. v. State of Hawai'i et al.*, 156 Hawai'i 520, 543, 575 P.3d 610, 633 (2025) ("To be clear, our holding that MLN's HEPA claims may proceed without application of the doctrine of administrative remedies does not automatically vitiate the CUP.")

III. Conclusion

Under PC Rule 3-1(c), the Commission "shall either deny the petition in writing, stating the reasons for such denial or issue a declaratory order on the matters contained in the petition, or set the matter for a public hearing[.]" For the reasons discussed above, the Petition should be denied.

Sincerely,

Carlsmith Ball LLP



Patrick K. Wong

Onaona P. Thoene

Attachments 1-2

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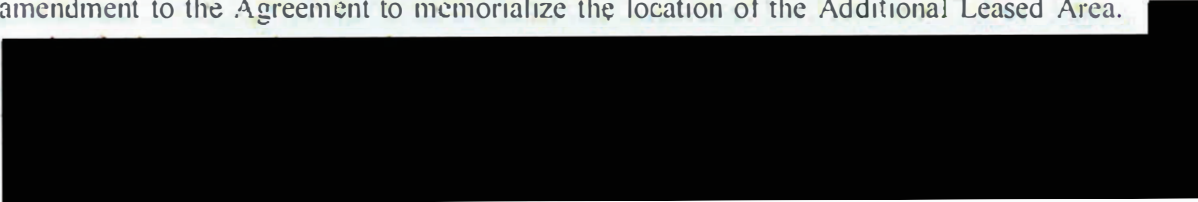
LAND LICENSE AGREEMENT

This Agreement, made this 3rd day of December, 2018, ("Effective Date") between Hawaii Pacific District Church of the Nazarene, a eleemosynary Hawaii corporation, with its principal offices located at 15-1839 32nd Avenue, Kea'au, Hawaii 96749, hereinafter designated LICENSOR and Cellco Partnership d/b/a Verizon Wireless, with its principal office located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (telephone number 866-862-4404), hereinafter designated LICENSEE. The LICENSOR and LICENSEE are at times collectively referred to hereinafter as the "Parties" or individually as the "Party".

1. PREMISES. LICENSOR hereby licenses to LICENSEE a portion of that certain parcel of property (the entirety of LICENSOR's property is referred to hereinafter as the Property), located at 15-1839 32nd Avenue, Kea'au, County of Hawaii, State of Hawaii, TMK # (3) 1-5-017-118, and being described as a 30' by 30' parcel containing 900 square feet (the "Land Space"), together with the non-exclusive right (the "Rights of Way") for ingress and egress, seven (7) days a week twenty-four (24) hours a day, on foot or motor vehicle, including trucks over or along a right-of-way extending from the public right-of-way, 31st Avenue, and with access from Tax Parcel TMK # (3) 1-5-017-084, to the Land Space, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along one or more rights of way from the Land Space, said Land Space and Rights of Way (hereinafter collectively referred to as the "Premises") being substantially as described herein in Exhibit "A" attached hereto and made a part hereof.

In the event any public utility is unable to use the Rights of Way, the LICENSOR hereby agrees to grant an additional right-of-way either to the LICENSEE or to the public utility at no cost to the LICENSEE.

Expansion of the Premises. Notwithstanding anything to the contrary in the Agreement, LICENSOR and LICENSEE hereby agree that at LICENSEE's option, LICENSEE shall have the right to license additional space from LICENSOR for the continued installation, operation and maintenance of its wireless communications facility on the Property (the "Additional Leased Area"). Upon LICENSOR's approval of the Additional Leased Area, which approval shall not be unreasonably withheld, conditioned or delayed, the parties agree to negotiate in good faith an amendment to the Agreement to memorialize the location of the Additional Leased Area.



2. SURVEY. LICENSOR also hereby grants to LICENSEE the right to survey the Property and the Premises, and said survey shall then become Exhibit "B" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the LICENSEE.

3. TERM; RENTAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of [REDACTED]

[REDACTED]

4. EXTENSIONS. This Agreement shall automatically be extended for four (4) additional five (5) year terms unless LICENSEE terminates it at the end of the then current term by giving LICENSOR written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

5. EXTENSION RENTALS. The annual rental for the first (1st) five (5) year extension term shall be increased to [REDACTED] the annual rental for the second (2nd) five (5) year extension term shall be increased to [REDACTED] the annual rental for the third (3rd) five (5) year extension term shall be increased to [REDACTED] and the annual rental for the fourth (4th) five (5) year extension term shall be increased to [REDACTED]

6. ADDITIONAL EXTENSIONS. If at the end of the fourth (4th) five (5) year extension term this Agreement has not been terminated by either Party by giving to the other written notice of an intention to terminate it at least three (3) months prior to the end of such term, this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of five (5) years and for five (5) year terms thereafter until terminated by either Party by giving to the other written notice of its intention to so terminate at least three (3) months prior to the end of such term.

[REDACTED]

[REDACTED]

WINDWARD PLANNING COMMISSION
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
JANUARY 8, 2020

A regularly advertised hearing on the application of **CELLCO PARTNERSHIP DBA VERIZON WIRELESS (AMEND USE 15-000056)** was called to order at 9:03 a.m. in the County of Hawai'i Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i with Chairman Joseph Clarkson presiding.

COMMISSIONERS PRESENT: Gilbert Aguinaldo, Dean Au, Joseph Clarkson, Donn Dela Cruz, John Replogle.

ABSENT & EXCUSED: Thomas Raffipiy.

ALSO PRESENT: Michael Yee (Planning Director), Malia Hall (Deputy Corporation Counsel for the Windward Planning Commission), Maija Jackson (Planner), Christian Kay (Planner), Jessica Andrews (Planner), and Sarah Hata-Finley (Commission Secretary).

And 8 members from the public in attendance.

**APPLICANT: CELLCO PARTNERSHIP DBA VERIZON WIRELESS
(AMEND USE 15-000056)**

Application for an amendment to Use Permit No. 15-000056, which allowed the construction of a 150-foot tall steel monopole telecommunication facility and related improvements within a 1,600-square foot portion of a 2-acre property (TMK 1-5-017:118) situated in the County's Agricultural- 1-acre (A-1a) zoning district. The applicant is requesting: 1) to change access to the telecommunication facility so that access is from 31st Avenue over TMK 1-5-017:084, and 2) a 5-year time extension to Condition No. 2 to complete construction of the facility. The subject property is situated between 31st Avenue and 32nd Avenue, about 2,160 feet southeast of the Paradise Drive intersection, Hawaiian Paradise Park, Puna, Hawai'i, TMKs (3) 1-5-017:84 and 1-5-017:118.

CLARKSON: With that, we'll proceed with the first item on the agenda, which is an application from Cellco Partnership to amend an existing Use Permit, and Maija will proceed, please.

JACKSON: Good morning, everyone, and happy new year, happy new decade. So, the first application on our agenda today is a request from Cellco Partnership also known as Verizon Wireless to amend Use Permit No. 15-56. The subject property is located in the Puna District in the Hawaiian Paradise Park Subdivision. The properties are outlined in black in the middle of the slide, and you can see the Kea'au-Pāhoa Road running in a north-south direction on the left side of the slide, and Paradise Drive coming off towards the north, and Maku'u Drive on the bottom of the slide. The property is situated between 32nd Avenue and 31st Avenue.

So, in 2015, the Planning Commission issued a Use Permit to Verizon to allow the construction of a 150-foot tall steel monopole telecommunication facility and related improvements within a 1,600-square foot portion of a 2-acre property, and that 2-acre property is Parcel 118, which I will show you in a minute.

The permit allowed access to the facility over a driveway from 32nd Avenue. It also required that construction of the facility be completed by November 19th of this year. So, the Applicant is now requesting to relocate that driveway from 32nd Avenue to 31st Avenue over a new property that the same landowner that owns Parcel 118 also owns Parcel 84. It's owned by a church. And, they're doing this in order to provide a safer play area for the preschool on the church property. The Applicant is also requesting a 5-year time extension to complete construction of the facility.

So, this is the original site plan. You can see 32nd Avenue on the left side of the slide. This is the 2-acre Parcel 118 which is owned by the church. This is a church building, and then over in this area is a preschool building. There are some playground equipment generally in this area, and the driveway access that was proposed back in 2015 would come through the parking lot near the playground equipment between the church and the playground to the back of the property to the cell tower facility site.

The Applicant is now proposing to get access from 31st Avenue over Parcel 84 and then to the back area of Parcel 118. And, that would avoid this playground equipment area. So, it would make a safer situation for the preschool.

The County zoning of the property is Agricultural – 1 acre along with most of the properties in Hawaiian Paradise Park. That's shown in the light green color. The General Plan designation is Rural for this area. And, this is an aerial view of the properties and surrounding area. This is the church building, the preschool building, the playground equipment is located here. So, the original driveway would have come through this area and back to the proposed tower site. Now, they are proposing to get access through this property to the tower site here.

And, this is a view of the property from 32nd Avenue. The original driveway would have come right through here, and this is the playground equipment. The cell tower site is behind the church building in this area here. And, this is another view again of the playground equipment, the cell tower site, and, another view from 31st Avenue through the vacant lot. The new driveway would be created back to this cell tower site.

The Planning Director is recommending approval of the amendments, and I do have quite a bit of information that has come in since our recommendation was released. In your packet, you should have two packages of letters received from the community opposing the extension request. And, you should also have a revised recommendation from the Planning Department on a yellow piece of paper. These revised recommendations were made to add conditions that were recommended by the U.S. Fish & Wildlife Service due to impacts on threatened and endangered species in the area.

And, I do also just want to point out that a lot of the testimony we received opposing the extension referred to a preschool called, "Tutu and Me" and I just want to point out where that preschool is located. And, this is based on me googling the address so I'm assuming it's correct. The Tutu and Me program is located right about here near Paradise Drive. Of course, there is also a preschool on the property which I mentioned.

And, that concludes my presentation. I'd be happy to answer any questions.

CLARKSON: Any questions for staff from the Commission? You all will be given a chance to testify and ask questions later. [*Audience member raised her hand.*]

AU: Mr. Chair, I have a question.

CLARKSON: Please.

AU: Maija, the proposed access, who owns that property?

JACKSON: The Church of Nazarene, and they also own the property where the tower will be located.

AU: Okay. So, they—I noticed in that Google map that there's other houses in the area, and just that one property behind is owned by the church?

JACKSON: That's correct.

AU: Okay, thank you.

CLARKSON: I have a question. Could we see the plot plan again that chose the new proposed driveway? Yeah, there. I'm just curious. It goes quite a ways, away. I mean, it's located quite a ways away from the property boundary. Was that done specifically just to shield the neighbor from the driveway or, I mean—

JACKSON: —I'm not sure why that was done. We could ask the Applicant.

CLARKSON: Okay, I will.

JACKSON: Okay.

CLARKSON: Any further questions? If not, thank you. Will the Applicant or their representative please come forward? Would you please raise your right hands? Do you swear or affirm to tell the truth on this matter before the Planning Commission today?

MARTIN: I do.

GRODZIN: I do.

CLARKSON: Please introduce yourselves and tell us where you reside, who you represent, and proceed with your comments about the application.

MARTIN: Okay, great. My name is Danette Martin. I'm a consultant to Verizon Wireless, and I live in Kailua-Kona.

GRODZIN: My name is Noah Grodzin. I'm the real estate manager for Verizon in the State of Hawai'i, and I reside in Mililani, Oahu.

MARTIN: Okay, so let me give you a little bit background on this. I came on this project after the permit was received in 2015, and at that time, the owner had not signed the lease agreement prior to getting the permit here. So, my job was to finish things up. And, so, I contacted the pastor who was new to this church, Dr.—or Pastor Ray, Raymond Seamon, and he was new to the project as well. And, so we went through the plans with him and he had mentioned that they had newly acquired this property in the back and that he requested that we change the access for that.

So, we did sign an agreement with him with the revised access and then we had to go through the NEPA process and that takes some time to do to make sure that they consult with the different agencies and things like that including Fish & Wildlife. So, we're coming back now after we were able to update that requesting this change.

I did read the, some of the testimony, the opposing testimony, and unfortunately, I wasn't able to get a radio frequency engineer here, because that's always helpful in talking to the community to explain to them why it's safe and why it's not harmful. And, so, if you don't mind, I would like to just read a little bit of information that I've received from the FCC about this.

So, "In 1996, the FCC adopted updated guidelines for evaluating human exposure to RF fields from fixed transmitting antennas such as those used for cellular and PCS cell sites. The [FCC's] guidelines are identical to those recommend by the National Council on Radiation Protection and Measures [*Measurements*], a non-profit corporation chartered by Congress to develop information and recommendations concerning radiation protection. The FCC's guidelines also resemble the 1992 guidelines recommended by the Institute of Electrical and Electronics Engineers, a non-profit technical professional engineering society, and endorsed by the American National Standards Institute" and ANSI "a non-profit, privately-funded membership organization that coordinates development of voluntary national standards in the United States.

In the case of a cellular and PCS cell site transmitters, the FCC's RF exposure guidelines recommend a maximum permissible exposure level to the general public of approximately 580 microwatts per square centimeter. This limit is many times greater than RF levels typically found at [*near*] the base of cellular or PCS cell site towers or in the vicinity of other, low [*lower-*] powered cell site transmitters.

Calculations corresponding to a "worst-case" situation (all transmitters operating simultaneously and continuously at the maximum licensed power) show that, in order to be exposed to RF levels near the FCC's guidelines, and individual would essentially have to remain in the main stream

[*transmitting*] beam and within a few feet of the antenna for several minutes or longer. Thus, the possibility of [*that*] a member of the general public being [*could be*] exposed to RF levels in excess of FCC guidelines is extremely remote.”

I hope this helps and provides them some comfort. And, I’m willing to take any of your questions.

CLARKSON: Well, the first question is do you agree with the Director’s Recommendation and conditions of approval. You’ve had it—have you had a chance to see those?

MARTIN: I have. We did discuss, you know, the Hawaiian Hawk is being delisted as an endangered species, and we discussed, we discussed maybe revising that language, but I was told this morning, Maija had mentioned that she had discussed this with U.S. Fish & Wildlife, and the Planning Department has decided to continue to not revise it, and we’re fine with that and those other, those other conditions as well.

CLARKSON: This is including the Conditions 5 through 9 that were very recently added—

MARTIN: —That’s right, yes—

CLARKSON: —after—

MARTIN: —Yes.

CLARKSON: Okay.

MARTIN: We are fine with those.

CLARKSON: Commissioners, any—

AU: —Mr. Chair, I have a question?

CLARKSON: Please—.

AU: Ms. Martin, how, is Pastor Seamon here?

MARTIN: Is who?

AU: Pastor Seamon. Is that his name?

MARTIN: No, he is not here.

AU: Okay, so I, I’ve seen the documents. One of the reasons why he requested to change the access was because he said, “the applicant was made aware that children sometimes play on the lawn.” So, can you just elaborate on that? Is that the reason—?

MARTIN: That's exactly the reason why—

AU: —That's one of the reasons why?

MARTIN: And, even though our maintenance people, they rarely come, probably once per quarter, it was still probably just a safer idea to redo that since they had the opportunity to do that since they had recently purchased the property.

AU: Okay, so, the two properties that the church owns, did they purchase the property at the same time?

MARTIN: No.

AU: So, they bought—

MARTIN: —They acquired the second parcel much later.

AU: Okay, did they acquire it for this reason? So, they can have an access through that end? Or, did they already have the property?

MARTIN: I don't really know the reason why they did. They just told me that they had recently acquired it and then they had asked that we relocate the access.

AU: Okay, and you have no indication on any future plans that they have for that property?

MARTIN: He said that they did not plan on developing it—

AU: —Okay—

MARTIN: —the property and that it would be used for access.

AU: Okay, thank you.

CLARKSON: Any further questions from the Commission? If not, thank you. We'll proceed with public testimony at this time. We have four people signed up to testify, and I'd like to ask all four of them to please come forward to be sworn in—Mary Couch, Nancy Young, Ric Wirick, and Jaerick Medeiros. Please raise your right hand. Do you swear or affirm to tell the truth on this matter before the Planning Commission today?

TESTIFIERS: Yes/I do.

CLARKSON: All right. We'll start with Mary. Please speak into the microphone.

COUCH: Sure can.

CLARKSON: Introduce yourself and tell us where you live.

COUCH: Okay. Hi, my name is Mary Couch. I live in Hawaiian Paradise Park. I've been a resident there for about 6-7 years. The reason why I am here today, I was on the board there for a year, and I'm one of the people that bailed because it was so dysfunctional. But, the reason why I am here is because the board had already passed—we've got a cell tower being built that's going to be put up on 17th where our community center is. And, in hindsight, that really should have gone out to the community for a vote. Now we're looking at another cell tower at the opposing end of our subdivision. This is right after that passed by the board; is when doctors started coming out on television saying we do not know what 5G is going to do to the community. We can't say without a doubt. And, honestly, it's going to be another one of those things like Roundup where once it's in, and it happens, and these contracts are not little one- or two- year things, these ramifications are going to take a long time to come to fruition. They say that highline and being located really close to high voltage power substations don't cause cancer, but any lineman worth his weight in salt will tell you it does. People that live close to that stuff have problems. We aren't talking about a minute amount of increase in the amount of radio waves that are going through—the numbers jumped from 4K to 5K substantially. And, HPP is a large park, but we are going to now have two 5G towers in there—one for AT&T and one for Verizon. And these guys are paying peanuts, folks. Peanuts at the expense of the community. And once they're in, they're in, and it doesn't matter how many people get sick, because they don't know. They're going to monitor it. They just don't know, and that's the facts. That is the facts. They don't know. They're going to monitor it, and it ain't going to, it's not going to come to fruition until many years down the road. There's little kids right there! The neighbors, I was a board member, and I told them, please guys, this needs to go out to a vote to the community because it's going to impact our entire community, and they were too busy fighting with each other and I so regret. I regret that I had voted for that thing, and I should have said no, but I didn't know, and you guys have an opportunity here to help our community, to protect us, because our board didn't do that. So, I am asking you to genuinely please consider what you're doing. Consider, because we're going to have two cell towers in a small amount of space, and it's going to be going like this at our community. Thank you.

CLARKSON: Nancy Young? Please speak into the microphone.

YOUNG: Okay—

HALL: It's on.

CLARKSON: It's on.

YOUNG: Thank you, my name is Nancy Young. I'm actually a retired teacher. I also have 14 children that I gave birth to with my same husband, which maybe some of you know—Coach Tony Young, the big black guy with the dreadlocks. We have been on the Big Island for 27 years, and we were at 13 years being raised by Hawaiians in Hau'ula. We're originally not from California, but Illinois, and I just am—I'm a mother; I'm a grandmother; I'm even a great-grandmother.

I want to ask the people if they gave us testimony of the safety rules from 1996 folks. There has been a lot of research since then. Is that correct? [*Turning to audience.*] You folks are basing it on, and not only that, but my children were raised, well two of them graduated from [*inaudible*] okay? There was six of 'em graduated from Waiākea High. Unfortunately, four of, I don't know, you do the math. The rest of them graduated from Kea'au, okay? Even my children, even my daughters and granddaughters have played sports in this community. They've been active members of this community and contributing.

Some of them went to Kea'au Elementary. It was too late when they found out the asbestos and the, I forget, arsenic in the ground I believe out there, but we do have updated information about the cell phone. I went to purchase a smart phone, Straight Talk. It does not say like people of my generation a little very fine line, "This may cause cancer." If you check out some of the packaging of the new cell phones, it says specifically, "This will cause cancer."

You know, folks, we do have an updated version of the safety. Let's not, let's not do this. There are children, that their lives are at stake, and you talk about endangered species. Yes, the animals and the endangered, we are an endangered species with our lack of trying to see the more recent—and if we have to change our opinion, no shame folks. We're doing it for each other and our children.

Thank you for listening, and this was very last minute, but, yes, and I appreciate—one of my questions was where is the pastor today, so thank you, sir, and I don't know if I should hold this to the end, but I wanted to ask the question again of the people that are proposing this, are, they're there? [*Turning to Ms. Martin and Mr. Grodzin in the audience.*] When you, I didn't quite get it, did he ask for your help to become a permitted—I'm not quite sure. I was trying to listen and take notes at the same time. The pastor, when you folks first got involved, you helped them—

CLARKSON: —Please, please address the Commission and then we'll—

YOUNG: —Oh, I'm sorry—

CLARKSON: —make sure the information gets requested.

YOUNG: Thank you.

CLARKSON: What is your question then?

YOUNG: The story they said about, was it the pastor that had originally, I want to know how the thing got started where, I guess he was not able—oh, and you, so many questions. Okay, let me say this. The pastor, Raymond Seamons [*sic*]? How is that spelled?

CLARKSON: We'll find out.

YOUNG: Okay.

CLARKSON: This is the current—you're asking how to spell the name of the current pastor?

YOUNG: The one that they are—.

CLARKSON: Dealing with now?

YOUNG: Yes, yes, yes.

CLARKSON: We'll find out.

YOUNG: Okay. And, the story was did he seek their help or did they seek his help in having this on this property or—?

CLARKSON: Well I—okay, we can ask about how the site was selected—

YOUNG: —Thank you—

CLARKSON: —later.

YOUNG: Okay.

CLARKSON: But, the change in the access is all that is new to this project.

YOUNG: Okay.

CLARKSON: And, that was initiated by the pastor.

YOUNG: Okay. Thank you.

CLARKSON: That's my understanding.

YOUNG: Yes, thank you for—

CLARKSON: Okay. Please—

COUCH: Can I ask one more question?

CLARKSON: Please.

COUCH: So, in 2015 when they applied for this permit, was it a permit for 5G at that point in time? Because you can be certain that that's what they're going to be putting up. So, what they want put up there, it's not even what they originally got it mapped for guys. C'mon.

CLARKSON: Okay, at this time, we'll ask Ric Wirick—?

WIRICK: Yes, my name is Ric Wirick. I live in Orchidland Estates just across the highway from HPP. First of all, I do have a question for the Commission. Is this meeting today to approve the tower going in or just to approve the road access to the tower going in?

CLARKSON: It's to approve the time extension required for completion with all of the conditions that were added to protect endangered species and with the new road access. The tower itself is not up for consideration today. That's my understanding. Somebody correct me if I'm wrong.

AGUINALDO: That's correct.

WIRICK: Okay, because I believe, you know, most of us that are here are here because the public health and welfare, safety issue created by the tower. And, so, I guess what would be best for us, especially us that are here, is how do we get our testimony in demanding actually that the County take the time to do the necessary studies around existing towers to show the community that this is a safe structure to put up? Now, there have been studies going on for over a decade in Europe. They were showing up to 70 percent of the people that live around within a half mile of these radiuses are being adversely affected, including the raise of cancer in individuals and that, so I'm just asking at this particular point, how do we go through the process to have every one of these towers looked at before they go in and make sure that the public safety hazard that it does create is addressed because there will be in time class action lawsuits going against the County for approving these things and the companies for installing these things. I mean, if we look at the scientific data that they presented to us today, if you remember, back in the 1950's we had doctors recommending Camel cigarettes to their patient with the AMA backing them. Today, we laugh at that. I'm telling you, that took 50 years to come around the corner. We're looking now at a risk that is involving safety of individuals and to allow these towers to go up around homes, schools, and also churches is, you know, verging on, you know, a form of insanity. We have to be able to move forward with this addressing the public safety issue in a realistic term looking at studies that have already been done in Europe, having countries already stop this. Like Belgium stopping any installation of new 5G towers and that how do we as a community stand up to protect ourselves before this hazard is put in place?

CLARKSON: To answer your question to the best of my ability, and I'll invite other Commissioners to speak to this issue, too, my suggestion is that you contact your Federal elected representatives, and I'll tell you why. There is a Federal law that prohibits any local jurisdiction from even considering the health effects of radiofrequency emissions in the consideration of siting telecom facilities. So, you all are very welcome to make your views known, but we as a local jurisdiction, the Planning Commission and the County, cannot consider any health effects of radiowaves in making our decision. So, if you think that that's wrong, Federal law needs to be changed, and the only way to do that is to get a representative before Congress to introduce those changes.

COUCH: That's 4G to 5G is in your power to say no, too, because they didn't apply for it. Well, just pointing it out.

WIRICK: Okay, so, I mean, maybe I can ask her question then on a technicality. There is planning that goes through when there is a Building Permit, special use permit, etcetera that goes through, and it has to be very specific to what it is. If they applied under 4G and they are now moving to 5G, there seems to be, there would have to be a resubmission of that to take it to the next level to have that put in, which would allow for time for those of us who have studied this to get something in so that we may stall this process. In other words, it's, it's, you know, to direct us to the Federal Government at this point is, you know, those of us who have worked for the Federal Government, we know what that means. It's basically there's nothing we can do, at least in a rapid time. The problem is, is we do have a safety issue. It is being addressed. There is a concerned public, and we need to be heard. So, you know, in other words, we need to be working with you folks to help us because actually I believe you're in this position, you're not elected or a paid position, but you are here to serve us, not the other way around. In other words, and it's the same with our elected officials. We have a public safety concern, and we would like it addressed.

CLARKSON: Concern taken. Can we go to the—Jaerick? Please introduce yourself and proceed.

MEDEIROS: My name is Jaerick Medeiros Garcia. Mahalo, happy new year everybody. Thank you for this opportunity for letting us speak. I come from Pepe'ekeō, and in the past, I've seen the Commission fail the people of the communities. I seen the public officials, I still see the public officials failing the County of Hawai'i. You look around this, this city, this town in Hilo, how much towers is up, and none of them have permits to be putting up extra things on these towers. How do I know? Because it happened in my own hometown of Pepe'ekeō. You got Corp. Counsel hoping everybody don't say anything about the health issues because a 1993 [*sic*] is the last time that they upgraded it, the FCC. Well, we can hold the County officials and the Commission accountable. As a Planning Director, Mr. Yee, you can deny these cell towers. You can. You have that power, but you're not. Can we hold you accountable if our family gets sick, when and if FCC do [*sic*] change their rules and regulations? Because right now, that's what's happening. For the towers in my community, you folks seen me speak before here about Pepe'ekeō, about the tower that Verizon wanted to put up in Kalapana. The thing is the towers that I speak of in my community sits on County property, and the County had failed to maintain and regulate these towers since 1988. Fifty-two people, and it doesn't matter if the County Commission cannot go against health issues. Well, this is a County issue, because why? The towers in my community is not regulated in the FCC jurisdiction. It's not. In the TMK that Corp. Counsel had held from us getting to the last two weeks, because I know they're trying to take papers out of there, I'm just look—I'm just lucky I took pictures of everything. It says that our tower is supposed to be regulated by the PUC and it hasn't.

Since 1988, 52 people had died from cancer in my community. As we speak right now, there's 27 people in my community with cancer at stage four. Homes hum [*making humming sound*] at night from these towers that had no permits to be upgraded, to have done anything. The TMK is still missing; I can't find that file. There's some funny business going on in here, and it needs to stop. If you guys are not concerned about the future generations of our children, our mo'opuna-s, you guys better think twice man, it's your kids, your grandkids that these things,

they shouldn't be around these things. We all know that it is a health problem no matter what Corp. Counsel said. Corp. Counsel is there to help profligate the County.

I'm telling you guys. These guys can come in here and say since 1996, why? Give us an answer. Sir, did you say your name was, what his name was Corey Shaffer maybe? [*Turning to Mr. Grodzin in the audience.*] Is that your name?

GRODZIN (*from audience*): No, I work with Corey—

MEDEIROS: Okay, I spoke to Corey Shaffer. You know, I have about one minute plus three, so here's the thing. Why can't you folks get the FCC, you folks get the FCC to upgrade all that information. You guys have that power. You're the Planning Commission. Help put things into legislation. The least you guys can do. Help us. I mean, I'm worried about your mo'opuna-s, your mo'opuna-s, your mo'opuna-s, your mo'opuna-s, your kids, your mo'opuna-s, your kids [*pointing to each Commissioner, Director Yee, and Ms. Hall*]. I'm concerned about that, nobody else? That's weird. Do not turn the blind eye to the community. Please think about what you guys doing. This might be just for about a road, but look, it's majority of churches that is being, putting these things on their properties next to playgrounds, next to children. These guys, they get one agenda, and their agenda is everything is okay. That's their agenda. The FCC Director comes from Verizon. Remember that. He's here with their own agenda to tell you guys it's okay, it's okay. Thank you.

CLARKSON: Thank you. Any—or would you like—?

YEE: Quick comment. This is a reminder to the public that any application that comes to the Planning Department goes through me, and I vet it, and I make a recommendation to them. Because an application is in front of the Commission does not mean that they were approving it, disapproving it, denying it. They have to hear it. Because they are hearing it does not mean they have leaned on a decision one way or another. To question any of these volunteers in their service to this community, I think is certainly not part of the Aloha Spirit. Question me. I'm not born and raised here. But, to question the service of these folks is getting a little bit outside of your testimony that you should be providing to the Commission.

Okay, we clarified in 1996, there's a telecommunications act. It's a Federal Law.

MEDEIROS: You know how long ago is that?

YOUNG: Twenty-four years ago.

YEE: It is a Federal law that as a Commission, they must abide to. Now, whether or not you want to agree or disagree with that, that's the law that certainly binds them to certain review. Okay, so I need folks to understand that. And as soon as we make a decision that falls outside of that, we would fall into an appeal hearing immediately, and we almost automatically would lose that appeal if it's solely based on whether or not the health issues—a 4G, 5G, if it's just based on a health concern. So, I would welcome testimony around if you're opposing the tower, but if it

only relies on health issues, you're going to make it hard for the Commission to really determine where the legal authority to deny or to approve.

YOUNG: May I speak? I don't know the technicalities of this. May I speak? I want to thank all of you, including you, sir, and this is what we live here for. This is why my husband and I forty years ago moved back here, because this is the last stand of aloha. Where my children would call any one of you uncle, aunty. We are not protesting. We just want—this meeting I was told that this is to debate whether the extension should be permitted. Is that true, yes?

CLARKSON: A time extension, yes.

YOUNG: Yes, and we are just actually asking it will be further down the line if we have everybody's cooperation in knowing that we need a little bit more time on this to bring in some of these more updated data, and I think that's really all we're really asking, and I just want you to know that even in this man's heart, he appreciates all of you.

MEDEIROS: Definitely, I'm not here to put all you guys on the hot seat—

YOUNG: —It's just that we're so—

MEDEIROS: —I'm hear to tell you guys—

YOUNG: —heartfelt—

MEDEIROS: —do you guys have kids?

YOUNG: Yes.

MEDEIROS: You guys have mo'opuna-s.

YOUNG: Yes.

MEDEIROS: I'm not telling you guys doing a terrible job. I'm just saying look around. If you guys want to hold cell tower issues, do it in the evenings so more people can attend. People is trying to make their—live, they're trying to survive. They at work. Nobody's here. We'd have more opposing these things, but it's not allowed seems like. So, can we just think about changing the times of dealing with this stuff so more people can be part of this decision, and—

CLARKSON: —That's—

MEDEIROS: —I am, I have firsthand experience, issues in my community where people within 300 or 500 feet from the project should be aware. It's not happening. It's not happening. Is County doing anything about it? No, they're not!

CLARKSON: Well, I can assure you that the notifications that are required by County ordinance of the neighbors when this originally was permitted were done. Everybody had a chance—

MEDEIROS: —Are you sure? Are you sure? Because I got paperwork showing me that within 500 feet of my, my home—

HALL: He's talking about a different project. He's not talking about this project.

MEDEIROS: No, but majority of the projects I'm talking about, Counsel, because you sit there as the Counsel doesn't mean you know everything—

CLARKSON: —Okay, I think we've gone through—

MEDEIROS: —The thing is, I have documentation saying, okay, how can you reach people through, the only things that, they don't list, in my community, they don't list all the addresses that get their mail. They try to hit the PO boxes that not even are in use already. So, a lot of my neighbors, they don't get notification of what's happening with the County. They don't.

CLARKSON: Okay, thank you all. Are there any further questions for any of the testifiers?

COUCH: Can I ask one more question?

CLARKSON: Go ahead.

COUCH: It'll be very brief. Thank you. I appreciate you guys giving us an opportunity to speak here. I really do, and since I kind of heard it out of your mouth, it seems like 5G is a different factor, that might be some of the things that are modified. When they applied at the Planning Department, it was for a different technology. So, I am saying that you guys can go back and say reapply for 5G instead of modifying, and I pray to God that each and every one of you will do that today for us. Thank you.

CLARKSON: Thank you, all. If there are no further questions for any of these testifiers, I'd like to call Dwight Vicente? Please raise your right hand. If you're not willing to be sworn, let me know, and we'll put on the record that your testimony is unsworn.

VICENTE: For the record, your jurisdiction is limited to the 1,750,000 acres that was illegally ceded to the U.S by the joint resolution of 1898 by the banana republic of Hawai'i. So, these lands have been on number 1, 2, and 3, I believe, was not ceded in 1898 and still belong to and fall under the jurisdiction of the Hawaiian Kingdom. So, your jurisdiction is questionable at best, limited to the Hawaiian Homes Commission which is the 1,750,000 only. So, you cannot issue permits or tax map keys of any sort. That's my answer to why I don't get sworn in.

CLARKSON: Any further testimony?

VICENTE: Okay my testimony is that the jurisdiction is questionable based on the 1898 Joint Resolution. It's limited to 1,750,000 acres of Crown and Government lands that was illegally ceded to the United States by the banana republic of Hawai'i. There's no amendment to go beyond that except in 1959, the State of Hawai'i had the State Land Use Commission to use their

power beyond the 1,750,000 acres by claiming adverse possession of these Crown and Government lands which the lease ended in 18—1915. Fell under their jurisdiction because they made a statement that somebody now owns these Crown and Government lands, and they're going for a land use change from agriculture to developing. So, it's still illegal because treaties ended in 1898, so anybody who claims, who remains here after 1897, became illegal aliens and they cannot own these Crown and Government lands. Till today, they still don't own the Crown and Government Lands even with the State Land Use Commission and even this Planning Commission. You cannot use their power beyond the 1898 Joint Resolution. And the Federal laws does not apply beyond the 1,750,000 acres. So, if you cite Federal law, it doesn't apply. There's no amendment to the U.S. Constitution, Article IV, Section 3, Clause 2. So, that's the limits right there. It's questionable because of the constitutional issues involved between the Hawaiian Kingdom and the United States which consist of, till today 13 states under Article I, Section 2, Clause 3. Thank you.

CLARKSON: Thank you. Are there any questions for this testifier, for Mr. Vicente from the Commission? Thank you, please be seated. Is there anyone else that hasn't testified that wishes to testify? If not, I'll ask for a motion that public testimony be closed.

AU: Mr. Chair, I move for, that public testimony be closed.

REPLOGLE: I second.

AGUINALDO: Second.

CLARKSON: All those in favor?

COMMISSIONERS: Aye.

CLARKSON: Opposed? Public testimony is closed. There's one follow-up question I would ask of the Cellco Applicant. It just relates to the question that was asked by one testifier as to who—the spelling of the name and who you're dealing with as a representative of the landowner.

MARTIN: Pastor Raymond Seamon, and that's spelled S-e-a-m-o-n.

CLARKSON: S-e-a-m-o-n, Pastor Raymond Seamon. That's all I have. Thank you.

GRODZIN: Can we address the comments of opposition?

AU: Mr. Chair, I do have some questions as well.

CLARKSON: Yes, follow-up questions for the Applicant?

AU: Yes. So, what is the process for, just give it to me real brief. I know you can talk about it a lot as far as the site selection for a cell tower or any cell tower, just real briefly.

MARTIN: Okay, so, the radiofrequency engineer issues a, well, we used to call them search rings, but now we call them search dots because they really do, you know, we're trying to fill in most of the area. So, they give us an area that they get, saying that they need service. So, we go out. We look at it, we talk to landowners, we try to talk to neighbors. We also go to the Planning Department usually and find out what the zoning is, and we try to provide more than one selection. Construction has a say in it, and utilities and things like that. There's a lot of things that go into it. Is this on? [*Referring to microphone.*]

Okay, so sorry, talking away. So, there's a lot of things that go into it. It's location first and foremost, utilities, and zoning and a landlord's willingness.

GRODZIN: But, stepping back from that, I mean, it starts off with is there coverage or not, and so if there's no coverage—I mean, we don't, there's a lot of capital spent to build a facility like this. And, Verizon doesn't just go out and build a cell tower just to add it to an area where there is like, coverage is okay, right? So, the RF engineer will, you know, his job is to, our job it to provide a great network for our customers and users and other users, future users, emergency service users and what not. So, simply, it's, when there's, when the engineer is looking at our network, and there's a coverage—what's called a coverage gap or a hole, it becomes an obvious, you know, an obvious response is like we need to provide a solution to provide coverage to that area. And, so that would, that's what starts what Danette's talking about where then he provides a search area and says, okay, if we can place a new solution, whether that's a cell tower or antennas on a rooftop or what have you, if we can provide a new solution in the search area, that will solve our coverage problem.

And, so, in this area. There is no tall structures. There's nothing else to put an antenna on. There is no coverage. So, the only solution for this type of area is a new cell tower. And, so, that's when you come into the complexities of zoning, right? So, not every zone allows for a tower or this type of use, so you have this area and you kind of start dividing it up. It's like where can we put this thing that's going to meet the jurisdictional requirements.

And, so, it's a combination of impacts, but I just want you to understand that it's not—you know, it's not like throwing darts at a dartboard or just a random thing. It's like, hey, we have no coverage here. Our job is to provide a great network so that someone when they're driving across an area or someone when they move somewhere or an emergency service person when they're going through an area, they don't lose service, right? So, they can always have continuous service. So, it starts with that and then it goes to hey can you find us a spot in this area 'cause we know anything in this search area will like fill in the coverage need. That's kind of how that happens.

AU: Thank you. Just one more follow-up question. So, you guys are coming in for a 5-year time extension, so share with the Commission where you are at with construction, and how much time do you really need? Do you need five years?

MARTIN: No, we don't.

AU: Okay, so where are you at with the construction part? Because you've already acquired the land; you got your permit; you're just waiting for this access. So, just share with us exactly where you are.

MARTIN: We already have the tower foundation designed. I plan on coming in for Plan Approval as soon as I get, as soon as I get the written approval from the Commission, and so, I could probably have this permitted by mid-year, and then we'll have to start applying for utilities and ordering the tower. It has to come by boat. So, really, realistically, I've been told we really only need a one-year extension.

GRODZIN: So, we spent the past year, literally the past year, working on this access revision. That's how long it's taken us to work to design new plans to go through the process to get to today. So, I mean, five years doesn't seem like a long time, but almost a quarter of that was spent just working on revising access. But, like Danette is saying, we do want to build this structure, but now we have to go through plan review, if we get approved today, we still have to go through the plan review process. We have to go through a Building Permit process which, I mean, we'll do the best we can to get through those processes, but some of it is, you know, on the reviewers and sometimes that takes longer than you want. So, I mean, we want to build this thing in the next year, but we can't really, really we can't—we're not confident that we could get it built under today's timeline.

AU: One more question. This is for staff or for Mr. Yee and Maija. So, can you just clarify this with me as far as process. So, the Applicant is coming in for a time extension and amendment, but now we're adding on another parcel, so from my understanding, the original special use permit was for one TMK. So, now the amendment is for another TMK. So, is it more appropriate for a new application or is it fine to just do an amendment to add on another TMK for the access road?

JACKSON: Typically, whenever we add a new TMK, it can be done through an amendment process. The same public notification to surrounding property owners is done and it includes the additional parcel, so more neighbors are notified. But, it's essentially the same process.

AU: Okay, thank you.

CLARKSON: Any further questions?

REPLOGLE: I have a question, and I don't know if you can answer this, but one of the earlier testifiers mentioned how within their subdivision, there's an AT&T tower, and you're going to put up a Verizon tower. Are you both separate—

MARTIN: —Let me address this—

REPLOGLE: —or do those overlap? Do we have to have a tower—if I'm Verizon, we got to put up a hundred towers and then we got to put up a hundred for AT&T—?

MARTIN: Absolutely not. As a matter of fact, each carrier prefers—the Planning Department policy requires us to co-locate, and so if AT&T or some other carrier came in after us, after we got our permit in 2015, they would have need to, they would have needed to show that this tower that Verizon is building couldn't meet their coverage objective. So, that doesn't happen.

REPLOGLE: Thank you.

CLARKSON: Any further questions? I have one last follow-up question. It relates to the difference between 5G and 4G. My understanding is that the effective coverage range for 5G is not as large as for 4G. Is that a—

MARTIN: Five G is basically an overlay, an overlay to an existing system to reduce capacity. So, it's more like a wifi, so with all the smart phones eating up all of the service, they add these smaller antennas and they don't go on towers because we obviously have coverage there, but they usually go on buildings or utility poles, and they're just a wifi overlay.

CLARKSON: Well, the—

GRODZIN: —You are correct. The 5G—

CLARKSON: —The questions I have is as cell companies migrate to 5G, does that mean, meaning more new towers are going to be required because their effective range isn't as far as the old 4G technology, and you're going to have to keep adding new towers?

GRODZIN: Not necessarily. So, I mean, this is a different type of conversation, but like I said, I was talking about before solutions, coverage solutions. So, 5G is just a newer—so first of all, the G stands for "Generation" all right so we went from 3G to 4G. It's just a generation of technology. So 5G is a smaller frequency area, but it provides for like higher speeds or higher bandwidth. So, the need for more towers? Not necessarily. So, one of the things with 5G that people are looking at or that companies are looking at are just smaller stations, smaller locations where a small 5G antenna would go like on a utility pole or something like that. Not necessarily a—5G does not require, necessitate more new cell towers.

CLARKSON: Okay, thank you. But, it would have a lot more smaller transmitters, much more frequently, throughout a community, on buildings on poles. I mean, that's what I've read. I just wanted to see how it affected tower applications, but you're saying 5G will not require more towers than 4G.

MARTIN: It actually does the opposite. The way I see it, is it does the opposite because it's, it's creating capacity, more capacity. So, you're adding these smaller antennas so that you don't need more towers.

GRODZIN: I guess ultimately, what requires more towers or more locations is more users and more usage of anyone's network.

MARTIN: That's right.

GRODZIN: But I can't speak to everyone like AT&T, Sprint, T-Mobile. I can't speak to all their coverage objectives and plans and stuff like that, but that's what really drives the need, is using it.

CLARKSON: Thank you.

MARTIN: One more thing I wanted to, you know, I want the public to feel safe. So, I wanted to point them to the American Cancer Society's website. They have done their own review of safety, and they have information on that website for their information.

CLARKSON: Okay, thank you.

AU: Mr. Chair?

CLARKSON: Did the audience get that? American Cancer Society website has information on cell technology.

MARTIN: That's right.

AU: Mr. Chair, I have a question for staff. So, there's, if this access, if this road access is granted for this second parcel, my concern is what limitations does the church have for that property, because it seems like that property is only going to have a road in it, and can you just tell us what's going to happen with that property? Can they sell it? And, if they do sell it, what's going to happen to the cell tower? Do they have to come in for another amendment for a new access road? Can you just kind of explain what could happen or what's going to happen with that piece of property. That's just my concern.

JACKSON: So, I also don't know what the church's plans are for the property. It could be used for a house. It could be used for any other agricultural purpose. The property could be sold by the church in the future, and if that does occur, we added a condition, Condition No. 3 requiring that the Applicant execute and record an easement over Parcel 84 so that access to the cell tower site can be provided in perpetuity by a future owner. If a future owner purchases Parcel 84, they still have to allow access to the tower.

As far as how the church could use that driveway, they also received a Special Permit for the church and so, if their intention is to move some of the church traffic through that property, they would need to amend that Special Permit to add that driveway onto the church Special Permit.

Does that answer your question?

AU: Yes, it does. Thank you.

MARTIN: And, I just wanted to confirm that we already do have a recorded license for this access, for that property, so if it was ever sold, the easement would go with the property. It wouldn't just end.

JACKSON: Could you provide a copy of that to the Department, please? For the file?

MARTIN: I can provide a redacted copy, yes.

JACKSON: Thank you.

CLARKSON: There being no further questions and public testimony has been closed. Thank you both. You may be seated. At this time, the Chair will call for a motion for action.

DELA CRUZ: Chair, I move that the Commission enter into executive session to consult with its attorney regarding questions and issues.

REPLOGLE: Second.

CLARKSON: It's been moved and seconded that we go into executive session to consult with the Corporation Counsel. All those in favor?

COMMISSIONERS: Aye.

CLARKSON: Opposed? Motion carried. So, the Commission will now go into executive session. Everybody is to leave the room except for the Commissioners and their attorney.

HALL: And Sarah.

At 10:08 a.m., it was moved by Commissioner Dela Cruz and seconded by Commissioner Replogle that the Commission go into executive session to consult with its attorney regarding questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities, pursuant to Hawai'i Revised Statutes Section 92-5. A voice vote was taken of all Commissioners present, and motion carried with five aye votes.

The room was cleared, and at 10:10 a.m., the Commission went into executive session. At 10:17 a.m., it was moved by Commissioner Replogle and seconded by Commissioner Au that the Commission go out of executive session. A voice vote was taken of all Commissioners present, and motion carried with five aye votes.

The hearing reconvened for regular session at 10:19 a.m.

CLARKSON: The regular meeting is back in session, and at this time, the Chair will ask for a motion for action.

C'mon guys we gotta take an action.

AU: Mr. Chair, I'm prepared to make a motion. I move that the application to amend Use Permit No. 15-000056 be approved based on the Planning Director's recommendation which shall be adopted.

REPLOGLE: Second.

CLARKSON: It's been moved and seconded that the motion—what he said—be approved, the application for an extension be approved. Is there any further discussion within the Commission about this motion? If not, will staff poll the Commission?

REPLOGLE: I would like—just discussion for the benefit of you all and Verizon. I can't say that we're unanimously in favor of this, but it appears that law and order supersede our authority in this case and, therefore, we are carrying out our duty to the County in terms of zoning, and we will do what's right as we have sworn to do. But, I think you can safely feel that I can't speak for everyone, but I'm guessing most of us are very sympathetic towards what you attempted to do today. But, we, we have our duty, and as our Chairman pointed out, I would get in touch with our congressional representatives and maybe somehow if they understand the urgency of it, something can be done. I feel powerless also. Anyway, thank you.

CLARKSON: Any further discussion? If not, please call the vote.

JACKSON: Commissioner Au?

AU: Aye.

JACKSON: Commissioner Replogle?

REPLOGLE: Aye.

JACKSON: Commissioner Aguinaldo?

AGUINALDO: Aye.

JACKSON: Commissioner Dela Cruz?

DELA CRUZ: Aye.

JACKSON: And, Chair Clarkson?

CLARKSON: Aye.

JACKSON: Okay, the motion carries five, zero.

CLARKSON: Thank you, all. The Applicant will be notified in writing very soon as to the action taken today.

The discussion ended at 10:22 a.m.

Respectfully submitted,

Sarah Y. Hata-Finley, Secretary
Windward Planning Commission