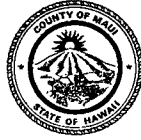


Council Chair  
Alice L. Lee

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Riki Hokama  
Kelly Takaya King  
Michael J. Molina  
Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

January 13, 2020

Ms. Michele McLean, Director  
Department of Planning  
County of Maui  
Wailuku, Hawaii 96793

Dear Ms. McLean:

**SUBJECT: PLANNING AND LAND USE OF AGRICULTURAL ZONES  
FOR HIGH ALTITUDE AVIATION AND 5G (PSLU-42)**

By Ordinance 4919, the Council granted Sprint Wireless a Conditional Permit to allow a wireless telecom facility at a property in Lahaina. Ordinance 4919 is attached for your reference.

May I please request you provide an update on the compliance status for each condition within Ordinance 4919.

May I further request you provide your response by **January 27, 2020**. To ensure efficient processing, please include the relevant Committee number in the subject line of your response.

Should you have any questions, please contact me or the Committee staff (Ana Lillis at ext. 7660, James Krueger ext. 7761, or Clarita Balala at ext. 7668).

Sincerely,

Handwritten signature of Tamara A. M. Paltin in black ink.

TAMARA PALTIN, Chair  
Planning and Sustainable Land Use  
Committee

pslu:ltr:042apl01:alkl

Attachment

cc: Mayor Michael P. Victorino

ORDINANCE NO. 4919

BILL NO. 118 (2018)

A BILL FOR AN ORDINANCE GRANTING SPRINT WIRELESS A CONDITIONAL PERMIT TO ALLOW THE INSTALLATION OF A WIRELESS TELECOMMUNICATION FACILITY CONSISTING OF A THIRTY-FIVE (35) FOOT MONOPALM TOWER WITH AN ADDITIONAL FIVE (5) FEET OF PALM FRONDS AT THE TOP, AND A 200 SQUARE-FOOT LEASE AREA TO CONTAIN EQUIPMENT ON THE GROUND; LOCATED IN THE A-2 APARTMENT DISTRICT, FOR PROPERTY SITUATED AT 3740 LOWER HONOAPIILANI ROAD AND IDENTIFIED AS TAX MAP KEY NUMBER (2) 4-3-006:004, LAHAINA, MAUI, HAWAII

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Sprint Wireless, to allow the installation of a wireless telecommunication facility consisting of a thirty-five (35) foot monopalm tower with an additional five (5) feet of palm fronds at the top, and a 200 square-foot lease area to contain equipment on the ground within the A-2 Apartment District. The site is identified for real property tax purposes as tax map key number (2) 4-3-006:004, comprising approximately 440 square feet of the 4.117-acre parcel of land situated at 3740 Lower Honoapiilani Road, Lahaina, Maui, Hawaii.

SECTION 2. The granting of this Conditional Permit is subject to the following conditions:

1. That the Conditional Permit shall be valid for a period of five (5) years from the effective date of this ordinance; provided,

that an extension of this permit beyond this five (5) year period may be granted pursuant to Section 19.40.090, MCC.

2. That the Conditional Permit shall be nontransferable unless approved by the Planning Director or Maui Planning Commission.
3. That Sprint Wireless and its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000) naming the County of Maui as an additional insured, insuring and defending Sprint Wireless and the County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this Conditional Permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Sprint Wireless of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as an additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this Conditional Permit. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable tax map key and permit numbers.
4. That Sprint Wireless shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered.
6. That Sprint Wireless shall submit for the Department's review and approval a preliminary compliance report and final

compliance report, addressing its compliance with the conditions established with the subject Conditional Permit. Sprint Wireless shall not submit a building permit application until the Department has approved the preliminary compliance report, and shall not seek final inspection or certificate of occupancy until the Department has approved the final compliance report. Any request for a time extension by Sprint Wireless shall be submitted to the Department with a compliance report.

7. That Sprint Wireless shall develop the property in substantial compliance with the plans, titled "Sprint Local Ask New Site Build, Site Name: South Kahana Maui, Site ID: HI80XC017," prepared by State 48 Development Consulting and dated November 13, 2017, and attached as Exhibit "3" to the "Maui County Planning Department's Report to the Maui Planning Commission June 26, 2018, Meeting"; and representations made to the Council in obtaining the Conditional Permit. As set forth in Sprint Wireless' presentation to the Council, the facility shall be limited to six panel antennas rather than the twelve indicated on its plans. Failure to so develop the property may result in the revocation of the permit.
8. That to the satisfaction of the Planning Director, the new wireless telecommunications facility shall be painted to match the surrounding buildings on the parcel on which it will be placed. The fenced compound shall include slats painted to match the facility and surrounding buildings. Evidence of how this condition will be fulfilled shall be submitted with the preliminary compliance report.
9. That Sprint Wireless shall notify the Communications Coordinator with the Department of Police of installation of equipment operating in the 700/800MHz band, system expansion, or shared location with other wireless carriers at this site prior to these changes being made to ensure that there is no potential degradation of the Maui County Public Safety Radio System.
10. That Sprint Wireless shall obtain a Federal Communications Commission permit, if required. Evidence of meeting this condition shall be submitted with the final compliance report.
11. That Sprint Wireless shall comply with the guidelines provided by the Department of Police.

12. That Sprint Wireless shall coordinate the turn-up date with the Department of Police Communications Coordinator to verify that there is no adverse impact on the Maui County Public Safety Radio System in the area surrounding this site.
13. That Sprint Wireless shall strive to meet the recommendations of the "Best Practices Guide" as they relate to reducing interference with Public Safety radio systems, as recommended by the Federal Communications Commission.
14. That, if Sprint Wireless' equipment causes the radio frequency noise floor to rise, resulting in interference which adversely affects the Maui County Public Safety Radio System, or degrades system performance, Sprint Wireless shall be responsible for restoring the use of the Maui County Public Safety Radio System by whatever means available and agreeable to the Department of Police Communications Coordinator. These remedies may include, but are not limited to, changing operational frequencies, and filtering and controlling radio frequency output. Costs incurred shall be the responsibility of Sprint Wireless.
15. That any changes to the operational frequencies at this site, through returning or dynamic reassignment, shall be coordinated with the Department of Police Communications Coordinator to ensure that there is no potential degradation of the Maui County Public Safety Radio System.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
DAVID GALAZIN  
Deputy Corporation Counsel  
County of Maui

lu:misc:067abill02

WE HEREBY CERTIFY that the foregoing BILL NO. 118 (2018)

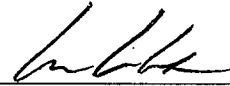
1. Passed FINAL READING at the meeting of the Council of the County of Maui, State of Hawaii, held on the 13th day of December, 2018, by the following vote:

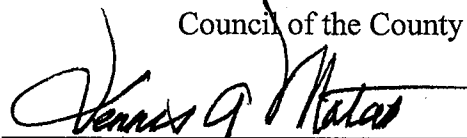
Michael B. WHITE Chair	Robert CARROLL Vice-Chair	Alika ATAY	Eleanora COCHRAN	S. Stacy CRIVELLO	Donald S. GUZMAN	G. Riki HOKAMA	Kelly T. KING	Yuki Lei K. SUGIMURA
Aye	Aye	No	No	Aye	No	Aye	No	Aye

2. Was transmitted to the Mayor of the County of Maui, State of Hawaii, on the 14th day of December, 2018.


DATED AT WAILUKU, MAUI, HAWAII, this 14th day of December, 2018.

RECEIVED  
2018 DEC 14 AM 11:15  
OFFICE OF THE MAYOR

  
MICHAEL B. WHITE, CHAIR  
Council of the County of Maui

  
DENNIS A. MATEO, COUNTY CLERK  
County of Maui

THE FOREGOING BILL IS HEREBY APPROVED THIS 16 DAY OF December, 2018.

  
ALAN M. ARAKAWA, MAYOR  
County of Maui

I HEREBY CERTIFY that upon approval of the foregoing BILL by the Mayor of the County of Maui, the said BILL was designated as ORDINANCE NO. 4919 of the County of Maui, State of Hawaii.

  
DENNIS A. MATEO, COUNTY CLERK  
County of Maui

Passed First Reading on November 15, 2018  
Effective date of Ordinance December 16, 2018

RECEIVED  
2018 DEC 17 AM 9:42  
OFFICE OF THE COUNTY CLERK

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 4919, the original of which is on file in the Office of the County Clerk, County of Maui, State of Hawaii.

Dated at Wailuku, Hawaii, on

\_\_\_\_\_  
County Clerk, County of Maui