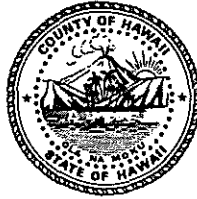


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director
Russell Kokubun
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

CERTIFIED MAIL
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August 14, 1997

Mr. George Nekota
SYSTEMS WEST, INC.
1259 South Beretania Street, Suite 21
Honolulu, Hawaii 96814

Dear Mr. Nekota:

Variance Permit No. 846 (VAR 97-43)
Applicant: SYSTEMS WEST, INC.
Owner: Hilo Residency Training Program
Request: Variance From the Height Limit and Minimum Rear and Side Yards and Permitted Projections Into Yard and Open Spaces, Pursuant to Chapter 25, Zoning, December 7, 1996
Tax Map Key: 2-3-031:019 and 020, CON 884

After reviewing your application and the information submitted on behalf of it, the Planning Director certifies the approval of your variance request. Variance Permit No. 846 permits the proposed Hilo Residency Training Program Building's height to a maximum forty (40') feet in lieu of the maximum thirty-five (35) feet permitted; and, the proposed building's side yards being minimum two feet (2'-0" +/-) and five feet (5'-0") in lieu of the minimum ten (10) feet side yard; and, a rear yard being two feet (2'-0" +/-) in lieu of the minimum twenty (20) foot rear yard; and, allows specific minor building projections into the affected side and rear yards.

The variances requested are from Chapter 25, Zoning, Article 5, Zoning District Regulations, Division 1, Single-Family Residential Districts (RS-10), Section 25-5-4, Height Limit, Section 25-5-7, Minimum yards, (a), (2), (A), (B), and clear space requirements pursuant to Section 25-4-44 (a) (1), Permitted Projections Into Yards and Open Spaces.

FINDINGS AND RECOMMENDATION

The Planning Director has concluded that the variance request from the maximum building height, minimum side yards and rear yards, and associated open space requirements should be approved based on the following findings:

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SPECIAL AND UNUSUAL CIRCUMSTANCES

1. The subject parcel or lot, containing 23,123 square feet is zoned Single-Family Residential (RS-10) by the County. The property is designated Agriculture "U" by the State Land Use Commission (LUCK).
2. The property's address is 1279-1285 Waianuenue Avenue. The undeveloped property is directly across from the Hilo Medical Center situated at Piihonua, South Hilo. The property is commonly identified by the following tax map key (TMK) numbers: TMK: 2-3-031:019 and 020, Consolidated. The final consolidation map dated April 30, 1997 in file (CON 884) to consolidate parcel 019 and parcel 020 into "LOT C 23,123 SQ. FT." was approved by the Planning Department on June 17, 1997.
3. The site plan drawing, drawn to scale, and related plan submittals submitted with the variance application were prepared by SYSTEMS WEST, INC. The plans identify proposed building height, the location of the proposed structure and related building improvements to be constructed on the subject property. The plans accurately denote the maximum building height and identifies the minimum building setback +/- and building projections from the affected side and rear yards.
4. The applicant was granted Final Plan Approval by the Planning Director on June 13, 1997. Final Plan Approval dated June 13, 1997 includes seven (7) conditions. Condition 1 requires the applicant to secure a variance permit for maximum building height, minimum building setbacks, and permitted projections into affected yards before a building permit application is submitted for approval by the Planning Department. To date no active building permit was issued to construct and establish the proposed building improvements on the subject property.
5. The County of Hawaii Planning Commission granted Planned Unit Development (PUD) Permit No. 18, on October 15, 1980, to allow the construction of a 4-story, 72 feet high Hilo Hospital Care Facility (Hilo Medical Center) which has been built and established on the property identified as "TMK: 2-3-27:2" and is located directly across from the front property line of the subject TMK property. The proposed preliminary building construction plans have been submitted to the State Department of Health, Hilo Medical Center, and other affected government agencies for consideration and review.
6. Pursuant to the submittals received on July 15, 1997, only the second notice of the

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subject variance application to the surrounding was sent to the property owners within 300 feet of the subject property.

7. The Department of Public Works (DPW) memorandum dated June 17, 1997 in the variance file states in part:
 - "1. Building shall conform to all requirements of code and statutes pertaining to building construction. No openings in the exterior wall are permitted less than 5-ft. from the property line. The exterior walls or projections shall be constructed to provide a 2-hr. fire resistive occupancy separation.
 2. Without a submitted plan map of the building and site, along Waianuenue Avenue, we cannot provide a full determination of the subject variance; however, the building appears to be within or affected by Flood Zone "A", according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Any new construction or substantial improvements will be subject to the requirements of Chapter 27-Flood Control of the Hawaii County Code."
 3. All development generated runoff shall be disposed on site and shall not be directed toward any adjacent properties.
 4. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control, of the Hawaii County Code.
 5. All driveway connections to Waianuenue Avenue shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code."
8. The State of Hawaii, Department of Health (DOH) memorandum dated July 21, 1997 in the variance file states the following:

"The Department of Health would support any sewer requirements made by the County of Hawaii for the proposed project.

Underground Injection Systems (Ph. 586-4258) which receive wastewater or storm run-offs from the proposed development need to address the requirements of Chapter 23, Hawaii State Department of Health Administrative Rules, Title 11, "Underground Injection Control."

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9. The following verbatim statements are from the applicant's reason(s), "VARIANCE REQUEST", attached to the variance application:
- "1. The project will be a new, two story structure for the Hilo Out-Patient Center and parking.
 2. The property is located on Waianuenu Avenue across from the Hilo Hospital. The Tax Map Key is 2-3-31:19 and 20. It is zoned RS-10 and is 23,123 sq. ft. in total lot area after consolidation.
 3. There will be 22 parking stalls, including six (6) handicapped stalls, plus two loading spaces. Additional parking for 40 cars are available on the adjoining property, owned by Hilo Residency Training Program Inc, for a total 62 parking stalls. The minimum required is 58 stalls.
 4. The proposed building will have a gross floor are of approximately 9,000 sq. ft. per floor, for a total of 18,000 sq. ft.
 5. The two parcels, after consolidation, for in an unusual "L" shape. Applicant requests approval of variance for setbacks and height limits, which would allow its best use.
 6. In lieu of 10 feet setbacks at the sides and rear applicant requests 2 feet on the west side, 5 feet on the east side, and 2 feet at the south boundary. See attached site plan for building outline and parking layout. If the full setback dimensions were required, the remaining buildable area would be inadequate for an outpatient center.
 7. There are no reasonable alternatives to the proposed development. The unusual shape of the property limits alternative schemes.
 8. Applicant request a variance from the 35 feet height limit. The proposed structure has a hipped roof with the highest ridge at approximately 39'-6" above finished grade. The roof material and slope is similar to the structures in the surrounding neighborhoods. See attached sketch of building section.
 9. Approval of this variance request will still be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan. Also, the proposed

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design is consistent with the surrounding area in aesthetics and as a medical facility and will not have an adverse impact on the area's character."

Therefore, considering the foregoing facts, existing site conditions, and surrounding property uses, it is felt there are special or unusual circumstances applying to the subject property which exist either to a degree which deprive the owner(s)/applicant(s) of substantial property rights that would otherwise be available, or to a degree which obviously interferes with the best use or manner of development of the subject property.

ALTERNATIVES

There are no reasonable alternatives in resolving the difficulty of the owner(s)/applicant(s). Pursuant to a recent site inspection of the property and existing inventory of surrounding and established uses, it appears the area selected within the "L" shaped property is the best or optimal location. The applicant would like to build a structure which copes with the physical limitations and dimensions of the property and the required design parameters which include parking and landscaping.

The Planning Department acknowledges there may be other design or building alternatives available to the owners/applicants. However, these design and building alternatives are deemed to be unreasonable at this time and would place excessive demands on the present owner or applicant when a more reasonable alternative is available by the granting of the subject variance request.

INTENT AND PURPOSE

The intent and purpose of setting building height limits and requiring building setbacks within a subdivision are to assure that adequate air and light circulation is available between permitted structure(s) and property lines. The proposed building will require off-street parking spaces and other necessary site and landscaping improvements be constructed and installed under a valid building permit issued to the applicant/owner.

Building Height: The proposed structure will be sited parallel to the Waianuenue Avenue right-of-way or along the mauka-makai axis within the "L" shaped property. The proposed building will include a 22 stall paved parking lot and landscaping improvements and will be bounded by two existing paved parking lots along the rear property line and a portion of the makai side property line. The subject property abuts two dwellings situated on privately owned TMK parcels (TMK: 2-3-031: 002 and TMK: 2-3-031:003). The proposed building will be setback over 135 feet from the existing front property line along Waianuenue Avenue. The proposed building will compliment and balance with the existing 72 foot high Hilo Medical Center building situated

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directly across from the consolidated property. It is felt the proposed building's height will not compete with the existing dwellings and streetscape or be viewed alone given the proposed building's location on the property and central position or location between two existing dwellings and other surrounding medical buildings and parking lot uses. Based on the surrounding and developed medical buildings and resources within the neighborhood and previously permitted PUD variance from building height to permit the 72 foot high Hilo Medical Center building, it is felt the proposed additional five foot building height will have little or no adverse visual impact on or to the surrounding properties and the neighborhood. It is felt the proposed building's height will not be physically and visually obtrusive from the existing private and public rights-of-way.

Building Setbacks: The existing proposed building's design and related site improvements are similar or compliment the existing and established medical facilities. The building's proposed encroachments do not depreciate or detract from the character of the surrounding medical public buildings/uses, the adjacent dwellings, and existing and surrounding urban and agricultural land patterns which have changed during the past 20 years. Planned landscaping materials on the property near the building entries and along and adjacent to the new proposed off-street parking spaces will ally the proposed setback deviations. The proposed Hilo Residency Training Building will be almost surrounded or bounded on three sides by existing or planned paved parking spaces and landscaping improvements. Development and drainage run-off will be collected and contained on-site. Refuse containers are being be provided on-site and mechanical emissions will be addressed and met pursuant to State Department of Health standards and requirements. Therefore, it is felt the proposed building's location and building encroachments into the minimum building yards will not detract from the character of the immediate neighborhood or the subdivision. The bulk or remaining portion of the proposed medical facility identified on the applicant's preliminary site plan will comply with the minimum yards of the Zoning Code, dated December 7, 1996.

The subject variance application was deemed complete on June 9, 1997. Pursuant to a August 8, 1997, discussion with the applicant, an extension of time until August 20, 1997, to render a decision on the subject variance application was mutually agreed upon.

Based on the foregoing findings, this variance request would be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning and Subdivision Codes and the County General Plan. Furthermore, this variance request will not be materially detrimental to the public's welfare and not cause substantial adverse impact to the area's character and to adjoining properties.

This variance request is approved subject to the following conditions:

1. The applicant(s)/owners, their assigns or successors shall be responsible for

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complying with all stated conditions of approval. The proposed development shall conform substantially to the plans submitted with the variance application and plans submitted for review under Plan Approval of the Zoning Code, amended December 7, 1996.

2. The applicant(s)/owners, successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim, or demand for the property damage, personal injury, or death arising out of any act or omission of the applicants/owners, their successors or assigns, officers, employees, contractors, or agents under this variance or relating to or connected with the granting of this variance.
3. The approval of Variance Permit No. 846 is only from the Zoning Code. The proposed Hilo Residency Training Program Facility shall be subject to State and County regulations pertaining to occupancy and building construction.
4. Future building improvements and permitted uses shall be subject to State law and County ordinances and regulations pertaining to building construction and building occupancy.

Should any of the foregoing conditions not be complied with, the Planning Director may proceed to declare this Variance Permit null and void.

Sincerely,


for VIRGINIA GOLDSTEIN
Planning Director

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xc: Real Property Tax Office
Plan Approval (TMK)