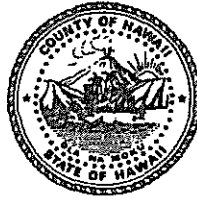


Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-4224
(808) 961-8288 • FAX (808) 961-8742

August 22, 2007

Ms. Rose M. Agbayani
PBR HAWAII
101 Aupuni Street
Hilo Lagoon Center, Suite 310
Hilo, HI 96720

Dear Ms. Agbayani:

VARIANCE-VAR 07-042

Agent: PBR HAWAII & ASSOCIATES, INC.

Applicant: KYA DESIGN GROUP

Owner: STATE OF HAWAII/UHH

Request: Variance from Chapter 25, Zoning,
Height Limit

Tax Map Key: 2-4-001:167

After reviewing your variance application and information submitted, the Planning Director certifies the approval of VARIANCE-VAR 07-042 subject to variance conditions. The variance allows proposed Science and Technology Building to be permitted within project site near West Lanikaula Street and constructed to a maximum 67 feet 5 inches building height in lieu of the property's maximum 35 feet height limit. The variance is from Chapter 25, Zoning, Article 5, Division 1, Section 25-5-4, Height limit.

BACKGROUND AND FINDINGS

1. **Location.** The referenced TMK property contains approximately 115 + acres and part of the University of Hawaii-Hilo Campus complex situated at Waiakea, South Hilo. The property is bounded by Lanikaula (West), Kapiolani, and Kawili Street(s). The project site is along West Lanikaula Street across from the Church of the Holy Cross.

The property is zoned Single-Family Residential (RS-10) by the County and designated Urban or "U" by the Land Use Commission (LUC).

2. **Variance Application-Site Plan**. The applicant submitted the variance application, attachments, and filing fee on June 15, 2007. The variance application's site plan map and other drawings are drawn to scale and prepared by the agent, project architect, and associates. According to exterior elevation drawings, portions of the proposed "SCIENCES AND TECHNOLOGY BUILDING" will be constructed to 67 feet 5 inches (67'-5").

The applicant's background states in part:

Page 2. "To fulfill the educational functions of the education buildings within the limited availability of land for the UH-Hilo campus, taller buildings have to be considered. In this case, the design of the Science and Technology Building warrants the increase in height due to the intended use of the site which will provide significantly more total floor area for science programs. These programs are currently segregated into a series of smaller buildings. The Science and Technology Building will provide a total floor area of approximately 41,560 square feet in a four story building, thereby maximizing the amount of usable space on the site. If required to be less than 35 feet in height, the Science and Technology Building would require substantially more ground area, thereby decreasing the area available for other Science Complex facilities, and resulting in less open space.

Construction of the proposed Science and Technology Building would alter the appearance of this portion of the campus, as viewed from West Lanikaula Street and may be visible from the University Heights residential subdivision to the northwest. The proposed building would also change makai views from the resident hall facilities mauka of the proposed Science Complex. However, the Science Complex site is not on the list of Natural Beauty Sites in the General Plan, and as such, the proposed Science and Technology Building is not expected to impact important public viewing points or visual resources. In addition, there are other buildings on the UH-Hilo campus that exceed 35 feet, and therefore, the Science and Technology Building will not be out of character with the uses of the UH-Hilo campus."

Note: The variance site plan map does not identify the location of the cesspool or Independent Wastewater System (IWS). The variance request does not address the location of the project's access and other related site improvements identified on the plans submitted with the variance application.

3. **County Building Records:**

The proposed 3-story building and associated site improvements will replace 2 existing 1-story wooden buildings and adjoining parking area on the subject TMK property.

4. **Agency Comments and Requirements-VAR 07-042:**

- a. The Department of Public Works (DPW) memorandum dated July 15, 2007 states in part:

“We have reviewed the subject application forwarded by your memo June 28, 2007 and not the approval of the application shall be conditioned on the comments as noted below.

All new building construction shall conform to current code requirements.

The maximum building height allowed shall be determined by the type of construction per the current code.”

5. **Notice to Surrounding Property Owners.** The applicant’s agent submitted copy of notices sent to surrounding property owners and proof of mailing notices to the Planning Department. According to these submittals, the first and second notice(s) were mailed on June 27, 2007 and July 13, 2007, respectively, by the applicant’s agent. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on July 6, 2007.

Posted Sign. The agent submitted an affidavit dated July 13, 2007 regarding posting of sign on the subject TMK property and photographs of the posted sign.

6. **Comments from Surrounding Property Owners or Public.** No further written agency comments were received. No written comments or objections from surrounding property owners or the general public were received.

SPECIAL AND UNUSUAL CIRCUMSTANCES

The applicant’s agent submitted the variance request and application to address the proposed building height. According to the applicant’s background report and referenced attachments (Page 1) states in part:

“The University of Hawai‘i at Hilo (UH-Hilo) proposed the construction of a Science Complex, replacing existing on-site buildings, to meet the needs of its growing student population. As such, a Final Environmental Assessment (EA) has been prepared pursuant to Chapter 343, Hawaii Revised Statutes. Notice of the Final EA/Finding of No Significant Impact was published in the May 23, 2007 issue of the Office of Environmental Quality Control’s The Environmental Notice.”

“The proposed Science Complex will consist of four buildings: the Science and Technology Building, the Pharmacy College, the United States Geological Survey (USGS) Building, and the Expansion Building (see Figure 2). Currently, only the Science and Technology Building has been designed and funded for construction (see Figure 3). The 2006 State Legislature appropriated \$25 million toward the construction of the Science and Technology Building.”

“While the other Science Complex facilities will be within the RS-10 zoning height limit of 35 feet, the Science and Technology Building will be approximately 67 feet 5 inches (see Figures 4, 5, and 6).”

The introduction and scale of new buildings including the juxtaposition of replacement buildings within the UH-Hilo campus should be appropriate, harmonious, and complimentary to other large buildings found elsewhere on the subject TMK property or UH-Hilo campus. The building height limit within the RS zone is to insure that dwelling scale and building heights are appropriate to lot size within a residential subdivision or neighborhood. In this instance the proposed Science Center including the Science Technology Building will replace older less efficient buildings on the 115 + acre(s) UH-campus and will not severely disrupt views from buildings on the UH-Hilo campus or vistas from roadways and residential subdivisions located mauka of the building site:

ALTERNATIVES

Alternatives available to the applicant/owner to address or change the proposed building’s height include the following actions:

1. Reducing the proposed building’s height to meet the height limits allowed by the Zoning Code. According to the applicant, the reduction in building height would hinder the building’s design and intended use.
2. Rezone the property to permit the proposed building height.

INTENT AND PURPOSE

The intent and purpose to limit building height are to assure that adequate air circulation and exposure to light are available between buildings and boundary/property lines.

The building site and original buildings on UH-Hilo campus were established on the subject TMK property before zoning and before the original Zoning Code was adopted by Hawaii County in 1967. The Single-Family Residential (RS) zoned district permits single family residential dwellings and accessory buildings such as detached garages, etc. However, the Zoning Code also permits and allows public facilities (e.g. schools or the UH-Hilo campus) and which sometimes require large multi-story or taller buildings including parking improvements, etc. The intent of the 35 feet height limit within the RS-zoned district was meant to limit dwelling height on smaller residential sized lots within a subdivision in order to maintain and preserve a residential scale and building character within a residential (RS) zoned subdivision or neighborhood. But a 35 feet building height limit restricts large multi-story buildings to accommodate campus growth and other advanced studies on the UH-Hilo campus which normally require fire escapes, elevators, and other building features, parking, etc.

Given the location of the building site and size of the property, the proposed building's location, size, and height are appropriate to the site within the UH-Hilo campus and similar in size and scale to other large buildings found elsewhere on the UH-Hilo campus or within the nearby campus core. It is felt that the proposed Science and Technology Building's design and size requiring additional building height will not be out of character with these large and buildings exceeding 35 feet located elsewhere on the UH-Hilo campus.

The subject variance application was acknowledged by letter dated June 28, 2007 and additional time to complete the variance background report was necessary. The applicant agreed to an extension of time to complete the variance background report and render decision on subject variance application to on or before August 24, 2007.

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

PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

This variance request is approved subject to the following conditions:

Ms. Rose M. Agbayani
PBR HAWAII
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August 22, 2007

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.
2. The applicant/owner(s), 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 proposed Science and Technology Building shall submit Application for Plan Approval and required submittals to the County of Hawaii Planning Department for review and secure Final Plan Approval (FPA) before submitting detailed building plans and specification for a County Building Permit.
4. Building improvements on the subject TMK property are subject to State law and County ordinances and regulation pertaining to building construction and building occupancy. The proposed Science and Technology Building shall be constructed in accordance with approved building plans and building specifications.

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

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

WRY/DSA:cd
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xc: Real Property Tax Office-Hilo