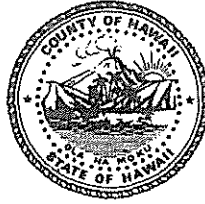


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

May 7, 2009

Mr. Gerald Park
LATITUDE 20 PLANNING
95-595 Kanamee Street #324
Mililani, HI 96789

Dear Mr. Park:

SUBJECT: VARIANCE-VAR 09-001
Applicant: URBAN WORKS/LATITUDE 20 PLANNING
**Owner: STATE OF HAWAII/
UNIVERSITY OF HAWAII at HILO**
**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 09-001 subject to variance conditions. The variance allows proposed Student Services Building to be permitted upon subject TMK property or project site near West Kawili Street to be constructed to maximum 45+ feet 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 abuts a UHH parking lot along West Kawili Street across from the Waiakea High School campus.

MAY 07 2009

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 January 22, 2009. The variance application's site plan map other drawings are drawn to scale and prepared by the applicant or project architect and other associates. According to exterior elevation drawings, portions of the proposed "STUDENT SERVICES BUILDING" will be constructed to a 45 feet +/- building height.

The background report or information dated "January 2009" states in part:

Page 1. "The site for a Student Services Building was prescribed in the UH Hilo Long Range Development Plan (1996) which recommended construction of a future "Building 6", a Student Services Building, to be located near the existing Student Services Building.

The proposed Student Services Building is both a new building and an expansion of the existing Student Services Building, the enlarged Student Services. The expanded Building will provide approximately 33,000 square feet of floor area arranged on three (3) floors. As stated in the purposed for the project, the building will co-locate administrative offices and student centered functions into a "one-stop-shop". Student associated functions are scattered throughout the campus making it inconvenient for students who must call on offices at different locations for registration, counseling, financial aid, and student records. It is also inefficient from administrative and operational perspectives. The multi-functional structure will affirm the University's commitment to foster and enhance the overall well being of its students.

The proposed Student Services Building is comprised of two slightly offset "wings". The offset results in part from locating the west wing of the building on a curved driveway and drop off area for the existing Campus Center Building. The west wing, which is the smaller sized of the two, also is set partially on a sloping hillside. The east wing will be erected on a relatively flat lawn closer to the existing Theater. Both wings are three floors in height.

Due to grade differences, the structure will incorporate natural gradients in its design inclusive of an open porch with storefront glazing facing grassed areas. It will use natural light and trade winds in its breezeway connecting the two wings (blocks) of its design."

Page 4. “The proposed building location, floor area, and height are appropriate to the site within the UH Hilo campus and similar in size and scale to other tall buildings found elsewhere on campus. At 40+/- feet in height, the 5-foot encroachment for a section of the west wing roof should not be significantly differentiated from sections of the roof and building slightly lower in height.”

Note: The variance site plan map does not identify the location of the cesspool, Independent Wastewater System (IWS), or sewer line. The variance request does not address the location of the building’s access and other 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 be constructed near the original UH Hilo Student Services Building and UH Hilo Theatre.

4. **Variance Application (VAR 09-001)-Agency Comments and Requirements:**

- a. The State of Hawaii-Department of Health (DOH) memorandum dated February 11, 2009 states in part:

“The Health Department found no environmental health concerns with regulatory implications in the submittals.

- b. The Department of Public Works (DPW) response is dated March 5, 2009 states:

“NO COMMENTS”

5. **Notice to Surrounding Property Owners.** The applicant submitted copy of notices sent to surrounding property owners including affidavits stating notices were sent or mailed to surrounding property owners by USPO. According to these submittals, the first and second notice(s) were mailed by the applicant to a list of surrounding property owners on January 27, 2009 and February 19, 2009, respectively. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on February 14, 2009.

Posted Sign. The applicant's agent submitted an affidavit dated January 26, 2009 regarding posting of sign upon subject TMK property and photographs or colored pictures of sign posted at upon or at the project site.

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 background report or information dated "January 2009" states in part:

"UH Hilo was established in 1941 as Hawaii Vocational College in the vicinity where the campus is now located. In 1970 the college was reorganized as University of Hawaii Hilo. In general the project parcel and original buildings on the UH Hilo campus were established on the subject parcel before zoning and before the original Zoning Code was adopted by Hawaii County in 1967. In effect the site of the present UH Hilo campus was functioning as a secondary education school before the advent of the zoning code.

Design and requirements for public facilities (such as a university) differ significantly from single-family residential requirements. There is no zoning district in the current HCC specifically for college or university use that would allow for taller buildings such as theaters, gymnasiums, libraries, classrooms and multi-purpose structures such as the proposed Student Services Building. In the past, where buildings on the UH Hilo campus exceeded the 35-foot building height, variances have been granted by the Planning Department."

The introduction or juxtaposition of the proposed Student Service Building near or next to present Student Services Building situated near the UH-Hilo campus core should be appropriate and compliment older buildings constructed within the campus core near adequate or convenient off-street parking areas. In this instance the expansion of the current Student Services Building or proposed Student Services Building's size including the building's proposed maximum 45 +/- building height proposed is necessary to accommodate increased student enrollment, etc. The building height limit for lots zoned Single-Family Residential (RS) or smaller lots created by residential subdivisions is to insure that building or dwelling size including scale and height are appropriate to the smaller residential lots (e.g. lots having a minimum 7500-15,000 square feet) within residential subdivisions nearest the campus. The proposed Student Services Building's position, proposed height, and relationship to other campus or public buildings exceeding the maximum 35 feet building height permitted by variance (i.e. the UH Hilo Theatre, etc.) constructed within or near the campus core will not severely impact or disrupt views or vistas from dwellings or public roadways within residential subdivisions situated mauka of the subject

TMK property or impact the vistas from other residential subdivisions situated below or makai of the project site and UH Hilo campus. Further, the project building's design and position takes into account the TMK property's or the project site's natural to gradual to moderately sloping to severe topography and unusual grade differences near the campus core; and, the proposed building is designed and oriented to receive and utilize natural light and allow penetration of trade winds for natural ventilation in the breezeway or throughout the proposed building.

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, "Alternative design schemes considered affecting building height were a building with less floor area than proposed and a no action alternative."
2. Rezone the TMK property amending the Zoning Code to create a zone permitting college or university buildings to be constructed or campus 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 subject TMK property consisting of 115 + acres UH-Hilo campus including the original campus buildings was created and established upon the property before original Zoning Code was adopted by Hawaii County in 1967 which includes the Single-Family (RS) zone designation. The Single-Family Residential (RS) zoned district permits single family residential dwellings and accessory buildings such as detached garages, etc. However, the Zoning Code or RS zone also permits or allows public facilities (e.g. schools or UH-Hilo campus) or larger multi-story or taller buildings with access to adequate off-street 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 upon smaller lots within a residential zoned neighborhood. However, the subject TMK property and project site zoned RS across from Waiakea High School has been utilized as a college or university campus for nearly 60 +/- years; and the 35 feet maximum building height limit restricts large multi-story buildings to accommodate campus growth and other advanced studies on the UH-Hilo campus which

normally require larger buildings requiring fire escapes, elevators, and other building features including associated parking, etc. not

Given the location of the building project site centrally located within the large 115 + acre property, the proposed building's size and height are appropriate to the site and other large public building constructed upon the UH-Hilo campus and similar in size and scale to other large buildings found with the UH-Hilo campus core near convenient parking areas. It is felt that the proposed Student Services Building's design and size requiring additional building height will not be out of character with other core campus buildings including the UHH theatre building and other buildings exceeding 35 feet located situated elsewhere upon the 115 + acre UH-Hilo campus.

The applicant's variance application-VAR 09-001 was acknowledged by letter dated February 6, 2009 and additional time to complete the variance background report was necessary. The applicant granted an extension of time to Planning Director to render decision on the applicant's variance application to on or before May 15, 2009.

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:

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 Student Services Building shall submit Application for Plan Approval and required submittals to the County of Hawaii Planning Department

Mr. Gerald Park
LATITUDE 20 PLANNING
Page 7
May 7, 2009

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 Variance-VAR 09-001 null and void.

Sincerely,

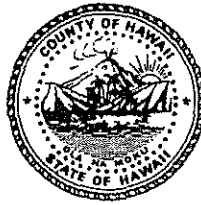


BJ LETIHEAD TODD
Planning Director

WRY:mad
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xc: Real Property Tax Office-Hilo

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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May 18, 2009

Mr. Gerald Park
LATITUDE 20 PLANNING
95-595 Kanamee Street #324
Mililani, HI 96789

Dear Mr. Park:

SUBJECT: VARIANCE-VAR 09-001 (Revised Variance Conditions)
Applicant: URBAN WORKS/LATITUDE 20 PLANNING
**Owner: STATE OF HAWAII/
UNIVERSITY OF HAWAII at HILO**
**Request: Variance from Chapter 25, Zoning,
Height Limit**
Tax Map Key: 2-4-001:167

Pursuant to your recent email and request, the letter dated May 7, 2009 approving Variance-VAR 09-001 and original variance conditions listed on page 6 and page 7 dated May 7, 2009 require clarification and corrections.

Please accept our apology for the inconvenience and confusion caused by the original variance conditions listed in letter dated May 7, 2009 approving VAR 09-001.

The letter dated May 7, 2009 and following heading and variance conditions listed on page 6 and page 7 are hereby revised to read as follows:

"PLANNING DIRECTOR'S DECISION AND VARIANCE CONDITIONS

The applicant's variance application-VAR 09-001 is **approved** subject to following variance conditions:

1. The applicant/owner, their assigns or successors shall be responsible for complying with all stated conditions of approval.

MAY 19 2009

Mr. Gerald Park
LATITUDE 20 PLANNING
Page 2
May 18, 2009

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 applicant/owner, their assigns or successors shall submit Application for Plan Approval and required plan submittals to the County of Hawaii Planning Department for review under Plan Approval of the Zoning Code. Final Plan Approval (FPA) for proposed Student Services Building and related site improvements must be secured before submitting detailed building plans and specification to County of Hawaii-DPW for a County Building Permit.
4. Building improvements upon the subject TMK property are subject to State law and County ordinances and regulation pertaining to building construction and building occupancy. The proposed Student Services 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 Variance-VAR 09-001 null and void.

Sincerely,



BJ LETIHEAD TODD
Planning Director

WRY:mad
P:\WP60\WRY\FORMLETT\VAR09-001\ZCBLDGHEIGHT.PARK-UHH.1

Enclosure-Application for Plan Approval

xc: Real Property Tax Office-Hilo (Ltr. Only)