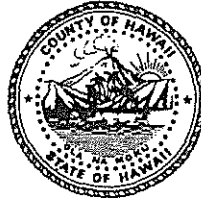


William P. Kenoi
Mayor



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

January 26, 2010

Mr. Stephen Yee
SSFM INTERNATIONAL, INC.
99 Aupuni Street, Ste. 202
Hilo, Hawai'i 96720

Dear Mr. Yee:

SUBJECT: VARIANCE-VAR 09-045
Applicant: SSFM INTERNATIONAL, INC.
**Owner: STATE OF HAWAII/
UNIVERSITY OF HAWAII at HILO**
**Request: Variance from Chapter 25, Zoning,
Height Limit**
Tax Map Key: 2-4-001:007

After reviewing your submitted variance application and information, the Planning Director certifies the approval of VARIANCE-VAR 09-045 subject to variance conditions. The variance allows proposed Hawaiian Language College Building to be permitted upon subject property or project site off of Nowelo Street to be constructed to maximum 60 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 subject property (TMK: 2-4-001:007) contains approximately 142.81 acres and is bounded by Komohana Street on the west, Kumuko'a Street on the north, and Waiäkea Stream. The project site which is bounded on the south side of Nowelo Street and west of the Waiäkea Stream is within the State owned University Park of Science and Technology and will consists of seven acres of the subject property. The property is zoned Single-Family Residential – 10,000 square feet (RS-10) by the County and designated Urban or "U" by the Land Use Commission (LUC).

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2. **Variance Application-Site Plan**. The applicant submitted the variance application, attachments, and filing fee on August 19, 2009. The variance application's site plan map other drawings are drawn to scale and prepared by the applicant. According to the exterior elevation drawings, portions of the proposed "College of Hawaiian Language Building" will be constructed to a 60 feet building height.

The proposed Hawaiian Language Building is a two story, 32,000 square foot facility located in the State Land Use Urban District and the Hawai'i County RS-10 residential zoning district. The project site which is bounded on the south side of Nowelo Street and west of the Waiākea Stream is within the State owned University Park of Science and Technology and will encompass seven acres of the subject property near the main UH Hilo Campus.

3. **County Building Records:**

The proposed two-story, 32,000 square feet facility and associated site improvements will be constructed within the State owned University Park of Science and Technology Building.

4. **Variance Application (VAR 09-045)-Agency Comments and Requirements:**

- a. The State of Hawaii-Department of Health (DOH) memorandum dated November 9, 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 November 18, 2009 states:

"We have reviewed the subject application forwarded by your memo dated November 3, 2009 and require approval of the application be conditioned as noted below.

The building must conform to the maximum height per table no. 5-d of the 1991 Uniform Building Code (or the height limitations of the building Code in effect at the time of submittal to the building Division)."

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 September 11, 2009 and November 20, 2009, respectively. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on November 9, 2009.

Posted Sign. The applicant's agent submitted a letter dated November 23, 2009 stating: *"A sign has been posted on November 19, 2009 in accordance with Chapter 23, Article 4, Division 1, Hawaii County Code 1983 (2005 edition) or Ordinance No. 05-135. The sign was posted on the subject property on Nowelo Street and is nine square feet in area. The applicant or authorized representative will not remove the sign until the application has been granted, denied, or withdrawn. A photograph of the sign in place is attached."*

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 proposed College of Hawaiian Language facility will consolidate the Hawaiian College programs spread amongst six existing buildings at various locations and provide for future expansion.

The subject property is zoned Single Family Residential – 10,000 square feet (RS-10). The maximum height limit for the subject property is 35 feet. The RS-10 zoning was established prior to the development of the University of Hawaii Campus, and while the height limitation is appropriate for residential development, design and requirements for public facilities (such as schools, universities, etc.) differ significantly from single family residential requirements. University structures are more typical of urban settings where lots and the size of the structures are much larger.

The applicant has stated in its application that the College of Hawaii Language will combine several unique functions. The college offers an undergraduate degree and now has a PhD program, but it is also closely linked to the "Hawaiian immersion" early childhood educational programs. By the nature of its central mission, the preservation and promotion of Hawaiian language and culture, no other resource exists anywhere in the world for teaching materials. For

example no one can develop recordings for Hawaiian language laboratory use, or a Hawaiian language coloring book outside of this program. As such, not only are classrooms required, but also a recording studio, a distance learning center, teacher education, curriculum development, library and archives for extremely rare printed and audio records, and even simultaneous translation capacity to include other Polynesian cultures, the facility also includes a special classroom for working with plants and plant material, and a Performing Arts Classroom for teaching o song and dance. In short, this facility is to be a central pillar in the Hawaiian landscape.

To reflect this unique and rightful place, special consideration has been paid to the building's aesthetics. In addition to careful and studied interior and landscape design, the architects have considered traditional shapes and colors from the pre-contact period of Hawaiian history for the building shell. The college understandably wants the structure to speak of its people and of its use, and the steeply sided roof over the Performing Arts Classroom is purposefully shaped and placed on a space of height cultural significance toward that end. It is patterned after the traditional Hawaiian *hale* and is echoed in smaller architectural features in this Phase 1 design and in other phases conceptualized for future development.

The proposed College of Hawaiian Language facility 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 property.

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

The applicant has cited that there are no reasonable alternatives in resolving the difficulty UH Hilo has in attempting to comply with height limitations of the RS-10 residential zoning district while providing for the program needs and multi-functional purposes of the building. Therefore, by redesigning the structure to meet the required height limit it would restrict the University of achieving the building aesthetics of a traditional Hawaiian hale.

A no action alternative would maintain the status quo thus maintaining and continuing the inconvenience of having the many different functions which are currently spread throughout the

various buildings and facilities on and off campus.

INTENT AND PURPOSE

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

The subject property consisting of 142.81 acres is part of the UH-Hilo campus including the original campus buildings which was created and established 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 not only permits single family residential dwellings and accessory buildings such as detached garages, etc., but also allows for public facilities (e.g. schools or UH-Hilo campus). 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. 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 project site, which is located within a larger 142.82 acre parcel, the proposed building's size and height are appropriate to the site and other large public building constructed upon the UH-Hilo campus. It is felt that the proposed College of Hawaii Language 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 on UH-Hilo campus.

The applicant's variance application-VAR 09-045 was acknowledged by letter dated November 3, 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 January 29, 2010.

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.

Mr. Stephen Yee
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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.
1. The proposed College of Hawaiian Language Building shall submit an 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 College of Hawaiian Language 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 09-045 null and void.

Sincerely,



BJ LETIHEAD TODD
Planning Director

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