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County of Hawai'i
PLANNING DEPARTMENT

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November 17, 2017

Thomas L. H. Yeh, Esq.
Law Offices of Yeh & Moore
10 Kamehameha Avenue
Hilo, Hawaii 96720

Dear Mr. Yeh:

SUBJECT: Application: Variance - VAR 17-000440
Applicant: THOMAS L. H. YEH, ESQ.
Owner: ISLAND HERITAGE VENTURES, LLC
Request: Variance from Chapter 25, Zoning, Article 4 Division 5,
Section 25-4-51 Required Number of Parking Spaces (a) (16)
Tax Map Key: 2-2-044:032, 035 & 037

The Planning Director certifies the **approval** of Variance 17-00440, subject to conditions. The variance allows for six (6) stalls out of the sixty (60) stalls allotted for the proposed Assisted Living Facility (ALF) to be allocated toward the two-story Commercial Center to satisfy its parking count requirement. The variance is from Chapter 25, Zoning, Article 4, Division 5, Section 25-4-51, Required Number of Parking Spaces (a)(4).

BACKGROUND AND FINDINGS

1. **Location.** The subject properties contain a total 6.22 acres and is situated at Waiākea, South Hilo, Hawai'i. The subject property's street address is 80 East Kahopea Street.
2. **County Zoning.** Neighborhood Commercial – 10,000 square feet (CN-10).
3. **State Land Use Designation.** Urban.
4. **Use Permit.** Use Permit 16-000065 was issued on January 5, 2017, to allow for the development of an 88-120 bed (105 units final build-out) Assisted Living Facility.

5. **Setback Requirements.** Front and rear yards are 15 feet; side yards, none, except where the adjoining building site is in an RS, RD, RM, RCX or V district. Where the side yard adjoins the side yard of a building site in an RS, RD, RM, RCX or V district, there shall be a side yard which conforms to the side yard requirements for dwelling use of the adjoining district.
6. **Variance Application.** The applicant/owner submitted the variance application, attachments, filing fee, and associated materials on August 9, 2017. The variance application's site plan, prepared by Douglas Pancake, Architects, denotes the location and number of parking stalls for the proposed Assisted Living Facility (ALF) and the two-story Commercial Center to be constructed on to the subject property. **(See Exhibit A)**

Based on the square footage of 14,080 square feet, the zoning code requires the two-story Commercial Center to provide 47 stalls, contrary to the 41 stalls depicted on the site plan. Therefore, the owners are seeking a variance from the parking requirements to allow for 6 of the 60 required parking stalls assigned to the Assisted Living Facility (ALF) to be allocated to the Commercial Center to satisfy its parking requirement of 47 stalls.

7. **County Building Records.** Tax Office records indicate that there are no structures situated on the three parcels. Demolition Permit (910263) was issued February 5, 1991.
8. **Agency Comments and Requirements.**
 - a. The State Department of Health (DOH) memorandum dated August 17, 2017 states: *"The Health Department found no environmental health concerns with regulatory implications in the submittals."*
 - b. No comments received from the Department of Public Works Building Division.
9. **Public Notice.** The applicant filed a transmittal letter with copy of the notices sent to surrounding property owners via USPS. According to USPS certificate of mailing receipts and affixed postal receipts, the first and second notices were mailed on August 30, 2017 and October 16, 2017, respectively. Notice of this application was published in the Hawaii Tribune Herald and West Hawaii Today on August 30, 2017.
10. **Comments from Surrounding Property Owners or Public.** None received.
11. **Time Extension.** The applicant's variance application was acknowledged by letter dated August 9, 2017 and additional time to review the application was required. The applicant granted the Planning Director an extension of time for decision on the Variance Application to November 20, 2017.

GROUNDS FOR APPROVING VARIANCE

Special and Unusual Circumstances

- (a) *There are special or unusual circumstances applying to the subject real property which exist either to a degree which deprives the owner or applicant 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 property.*

The Variance application meets criterion (a) for the following reasons:

The owners are proposing to construct an Assisted Living Facility (ALF) and a two-story Commercial Center on the subject property.

The site plan shows a total of sixty (60) parking stalls, including two (2) accessible stalls, situated around the Assisted Living Facility (ALF) and forty-one (41) stalls, including two (2) accessible stalls, around the two-story Commercial Center. As the applicant has stated in its background report, Section 25-4-51 (a) does not address any parking requirements for Assisted Living Facility. The applicant based their parking requirement on Nursing homes, convalescent homes, rest homes and homes for the elderly, one for every two beds. (Section 25-4-51 (a)(14)).

The applicant has cited that access and driveway elements, flood plains, topography (slopes), landscaping requirements, including the requirement to provide for a wastewater treatment plant to be built on site, due to the lack of public sewer system connection, limit the area allowable for parking.

Based on the information stated above, special and unusual circumstances do exist on the subject property which would interfere with the highest and best use of the subject property.

Alternatives

- (b) *There are no other reasonable alternatives that would resolve the difficulty.*

The Variance application meets criterion (b) for the following reasons:

The applicant has stated that the subject properties have gone through extensive engineering analysis to address the topography, drainage areas, limitations on driveway locations, setbacks and the need to provide a wastewater treatment facility with other infrastructure requirements.

A no action or denial of this variance would deny the owner's highest and best use of the subject property, especially when the Zoning Code does not provide for any parking requirements Assisted Living Facility.

Intent and Purpose

- (c) *The variance is consistent with the general purpose of the district, the intent and purpose of this chapter, and the general plan, and will not be materially detrimental to the public welfare or cause substantial, adverse impact to an area's character or to adjoining properties.*

The Variance application meets criterion (c) for the following reasons:

The intent and purpose of requiring parking and loading standards are intended to minimize street congestion and traffic hazards, and provide safe and convenient access to residences, businesses, public services and places of public assembly.

The owners are proposing a total of 120 beds in 105 units, consisting of a mix of studios, one and two-bedroom units and Alzheimer memory care units. Based on the data and analysis of other Assisted Living Facilities across the nation submitted within this application, the applicants feel that 54 parking stalls or one stall parking space for every 2.22 beds is reasonable and consistent for other Assisted Living Facilities in jurisdictions across the Nation. It is not anticipated that there will be a shortage of parking due to the nature of the development and restricted mobility of its residents based on standards for recent Assisted Living Facility (ALF) across the nation. **(See Exhibit B)**

It should be noted that **Section 25-4-52. Method of determining number of parking spaces.** (f) states: *"If there is any doubt as to the requirements for off-street parking for any use not specifically mentioned of for any other reason, the director shall determine the required number of parking spaces for such use"*.

Based on the foregoing findings and unusual circumstances, the applicant's request 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 request 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

Based on the variance application's site plan, the proposed two-story Commercial Center to be constructed on the subject property will not meet the minimum parking requirements pursuant to Hawai'i County Code, Chapter 25, (Zoning Code).

This variance application is **approved** subject to the following variance 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 Hawai'i 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. All parking for the subject property facilities shall be on site.
4. The applicant/owner(s), shall submit an Application for Plan Approval to the County of Hawaii Planning Department for review. Plan Approval and other required entitlements shall be secured prior to submitting detailed building plans and specification for a County Building Permit.
5. Future or new 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 variance conditions not be complied with, the Planning Director may initiate proceedings to null and void Variance-17-000440.

Sincerely,



MICHAEL YEE
Planning Director

LHN/SG:nci

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Encl: Exhibit A - Site Plan
Exhibit B - Parking Standards and City Parking Requirements for Recent and Current Assisted Living and Memory Care Facilities across Different Jurisdictions

cc: Real Property Tax Office (Hilo)
Gilbert Bailado, GIS

EXHIBIT

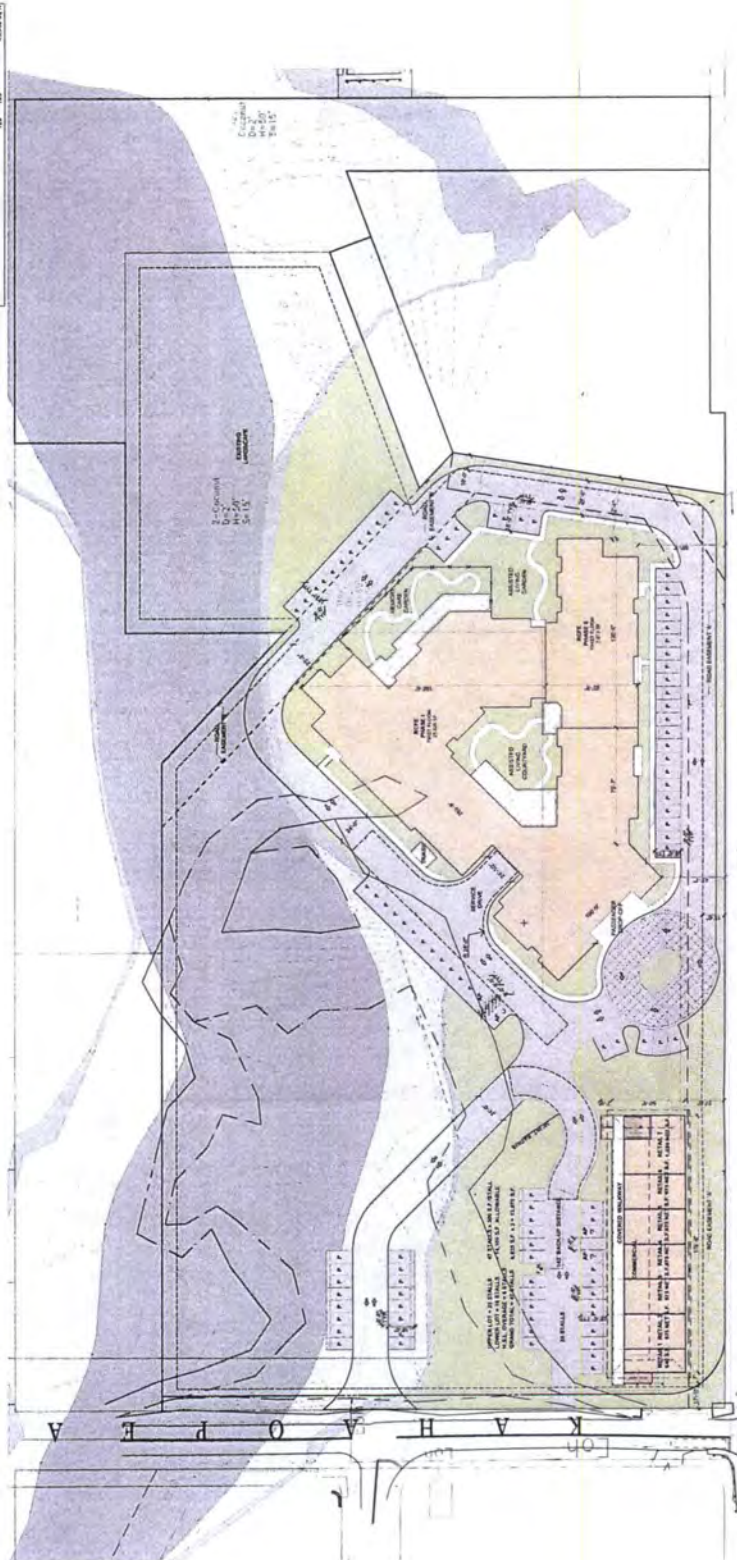
A

CONTRACT SUMMARY	NO. OF UNITS	PROPOSED
PHASE 1	100	100
PHASE 2	100	100
TOTAL	200	200

GRAND BUILDING AREA	Area (SF)
Phase 1	25,000
Phase 2	25,000
Total Phase	50,000

UNIT MIX BY PHASE	Unit Name	Unit Type	Bed	Qty	Area (SF)	Total (SF)
Phase 1	A-1B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1A	ASSISTED LIVING - 1 BED	1	8	2,250	2,250
	A-1B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1D	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1E	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-1F	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-1G	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-1H	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
Phase 2	A-2B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2A	ASSISTED LIVING - 1 BED	1	8	2,250	2,250
	A-2B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2D	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2E	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-2F	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-2G	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-2H	ASSISTED LIVING - 1 BED	1	1	1,500	1,500

UNIT MIX BY PHASE	Unit Name	Unit Type	Bed	Qty	Area (SF)	Total (SF)
Phase 1	A-1B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1A	ASSISTED LIVING - 1 BED	1	8	2,250	2,250
	A-1B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1D	ASSISTED LIVING - STUDIO	1	1	150	150
	A-1E	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-1F	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-1G	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-1H	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
Phase 2	A-2B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2A	ASSISTED LIVING - 1 BED	1	8	2,250	2,250
	A-2B	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2C	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2D	ASSISTED LIVING - STUDIO	1	1	150	150
	A-2E	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-2F	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-2G	ASSISTED LIVING - 1 BED	1	1	1,500	1,500
	A-2H	ASSISTED LIVING - 1 BED	1	1	1,500	1,500



1 Site Plan
SCALE: 1" = 30'

Site Plan
A1

HILO SENIOR LIVING
RHODESMOORE, LLC
INTERSECTION OF KAOHELE AVENUE AND KANAOHE ST., HILO, HAWAII 96720

Douglas Pancake
ARCHITECTS
100 KAOHELE AVENUE, HILO, HAWAII 96720
PH: 808-935-1234 FAX: 808-935-1235

**Parking Standards and City Parking Requirements For
Recent and Current Assisted Living and Memory Care Facilities
Across Different Jurisdictions**

Project Name:	Good Sheppard	
Status:	Planning Review (Environmental Review)	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	City of Santa Monica, CA	
Parking Standard:	One space per five beds	.20/bed
Project Name:	Manse on Marsh	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Assisted Living	
Jurisdiction:	City of San Louis Obispo, CA	
Parking Standard:	One space per four beds	.25/bed
Project Name:	Raincross Assisted Living Facility	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	City of Riverside, CA	
Parking Standard:	One space per 4 units	.25/unit*
Project Name:	Assisted Living at Desert Valley Hospital	
Status:	Entitled and Delayed	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	City of Victorville, CA	
Parking Standard:	One space per four beds	.25/bed
Project Name:	Vintage Senior Living – Recollections at Bradford Square	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Memory Care	
Jurisdiction:	City of Placentia, CA	
Parking Standard:	One space per four beds plus one half space per employee	.25/bed + .5/employee
Project Name:	Casa de los Campanas	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Memory Care	
Jurisdiction:	City of San Diego, CA (Rancho Bernardo)	
Parking Standard:	One space per three beds	.33/bed
Project Name:	Paragon Gardens	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	Mission Viejo, CA	
Parking Standard:	One space per four units	.25/unit
Project Name:	The Terraces at San Joaquin Gardens (CCRC) Assisted Living and Memory Care buildings	
*Discretionary Approval		

EXHIBIT

B

Status: Complete
 Project Type: RCFE – Assisted Living and Memory Care
 Jurisdiction: Fresno, CA
 Parking Standard: One space per four beds plus one visitor .25/bed + 1/5 visitors + 1/1 empl.
 space per five beds plus one space per -35%
 employee w/ discretionary 35% reduction .39/bed*
 by granted by the Planning Director

Project Name: Silverado Senior Living at Beach Cities
 Status: Entitled, Permitted, Constructed and Operational
 Project Type: RCFE – Memory Care
 Jurisdiction: City of Redondo Beach, CA
 Parking Standard: One space per four beds .25/bed*

Project Name: Silverado Senior Living, Beverly Place
 Status: Entitled, Permitted, Constructed and Operational
 Project Type: RCFE – Assisted Living and Memory Care
 Jurisdiction: City of Los Angeles, CA
 Parking Standard: One space per five beds (+minor discretionary add) .225/bed*

Project Name: Gladstone Assisted Living
 Status: Entitled, Permitted, Constructed and Operational
 Project Type: RCFE – Assisted Living
 Jurisdiction: City of Glendora, CA
 Parking Standard: One space per three beds .33/bed

Project Name: Five Star - Tiffany Court
 Status: Entitled
 Project Type: RCFE – Assisted Living and Memory Care
 Jurisdiction: City of Walnut Creek
 Parking Standard: One Space for 4 beds and one space for each employee (22) on the
 heaviest shift .25 per bed +22*

Project Name: Bakersfield-Care Assisted Living
 Status: Entitled, Permitted, Constructed and Operational
 Project Type: RCFE – Assisted Living and Memory Care
 Jurisdiction: City of Bakersfield, CA
 Parking Standard: One Space for 2 beds and one space for each employee (14) on the
 heaviest shift .5 per bed + 14*

Project Name: Felicita Vida
 Status: Entitled, Permitted, Constructed and Operational
 Project Type: RCFE – Assisted Living and Memory Care
 Jurisdiction: City of Escondido, CA
 Parking Standard: Parking study and approved recommendation .34/bed*

Project Name: Summerland Terrace at Whittier
 Status: Entitled
 Project Type: RCFE – Assisted Living and Memory Care
 Jurisdiction: City of Whittier, CA

*Discretionary Approval

Parking Standard:	Parking study and approved recommendation	.32/bed*
Project Name:	Woodland Park West	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	City of Los Angeles, CA	
Parking Standard:	One Space for 4 beds +	.27/bed*
Project Name:	Silverado, Huntington	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	City of Alhambra, CA	
Parking Standard:	One Space for 4 Beds	.25/bed*
Project Name:	Peninsula Point	
Status:	Entitled	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	City of Rolling Hills	
Parking Standard:	One Space for 2 beds and one space for two employees (20) on the heaviest shift	.25 per bed + 10*
Project Name:	PaintBrush	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	City of Fresno	
Parking Standard:	One space per three units	.33/unit*
Project Name:	Vintage Terrace, Nipomo 119 AL Units	
Status:	Entitled	
Project Type:	RCFE – Assisted Living and Memory Care	
Jurisdiction:	San Louis Obispo County	
Parking Standard:	One Space for 4 beds	.25/bed*
Project Name:	Westmont at San Miguel Ranch	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	Assisted Living and Memory Care	
Jurisdiction:	City of Chula Vista, CA	
Parking Standard:	One space for 2 Beds	.5/bed
Project Name:	Signature Senior Living at Arvada	
Status:	Entitled, Permitted, Constructed and Operational	
Project Type:	Assisted Living and Memory Care	
Jurisdiction:	City of Arvada, CO	
Parking Standard:	Parking study and approved recommendation	.35/bed*

*Discretionary Approval