

County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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August 1, 2006

Steven S. C. Lim, Esq.
121 Waianuenue Avenue
Hilo, HI 96720

Dear Mr. Lim:

Special Permit Application (SPP 06-000028)

Applicant: Vickie L. Crosby dba Ocean View Family Health Clinic

Request: Establishment of Primary Health Care Clinic Within Existing

Dwelling on 1 Acre of Land Within the SLU Agricultural District

Tax Map Key: 9-2-17:portion 9

The Planning Commission at its duly held public hearing on July 21, 2006, voted to approve the above-referenced application to allow the establishment of a primary health care clinic within an existing single family dwelling on approximately 1 acre of land situated within the State Land Use Agricultural District. The property is located along the north side of Aloha Boulevard, approximately 385 feet northeast of the Aloha Boulevard – Iolani Lane intersection, Hawaiian Ocean View Estates Subdivision, Kahuku, Kau, Hawaii.

Approval of this request is based on the following:

The applicant is requesting to establish a primary health care clinic within an existing dwelling on approximately 1-acre of land within the Hawaiian Ocean View Estates Subdivision. The dwelling is 3,104 square feet in size and consists of 3 bedrooms and 2 bathrooms. The applicant will reside in the rear portion of the dwelling, which will consist of approximately 1,904 square feet. The facility will consist of the Ocean View Family Health Clinic, which will be located in the front portion of the existing dwelling, which will consist of approximately 1,200 square feet of area. It will consist of a reception area, a waiting room, two examination/treatment rooms, a laboratory, and restrooms. Services will be provided to take care of minor acute care and health promotion services such as immunizations, well child exams, and annual physicals. Patients will not be held overnight and there will be no narcotics stored or dispensed at the clinic. The clinic will also serve as an urgent care facility. In emergency cases, the

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patient will be stabilized and transported to the nearest emergency room by ambulance. The applicant intends to expand the rear portion of the dwelling and convert the area into medical offices in the future. There will be parking and an ADA access ramp to the waiting room.

The applicant is a Certified Family Nurse Practitioner (FNP) and is able to provide primary health care services. The applicant is proposing to hire a full-time manager, a full-time receptionist and a part-time Marshallese speaking interpreter. It is anticipated that there will be approximately 20 patients treated per day. Hours of operation are proposed to be from 7:00 a.m. to 5:00 p.m., Monday through Friday and 8:00 a.m. to 12:00 noon on Saturday.

The grounds for approving a special permit are based on Rule 6-6 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes (HRS), as amended. In recognizing that lands within the agricultural districts might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural District. In addition, the State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The land on which the proposed use will be located is classified as "E" or "Very Poor" for agricultural productivity by the Land Study Bureau and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The project site is 1 acre in size. It is presently developed with a single-family dwelling and landscaped with Macadamia nut trees, Norfolk Pines, Plumeria trees, Jacaranda trees, Bougainvillea and assorted fruit trees. The requested use will be conducted entirely within a portion of the existing dwelling. Therefore, approving the request to allow the establishment of a primary health care clinic within an existing dwelling will not have a significant adverse effect on the County's agricultural land inventory. It is determined that the proposed use

is an unusual and reasonable use of lands situated within the Agricultural District and will not be contrary to the objectives of Chapter 205, HRS, as amended.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b)(5) (A) through (G). In considering the criteria, the Planning Director recommends as follows:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The applicant has met this criterion based on the previous discussion listed above, mainly that the State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawaii. Although the project site is very poor for agricultural activities, the remainder of the property will be used for agricultural uses. Additionally, the requested use will be conducted entirely within an existing dwelling.

(B) The desired use would not adversely affect surrounding properties. The surrounding properties are located within the Hawaiian Ocean View Estates Subdivision. They are approximately one (1) acre in size and zoned Agricultural (A-1a) by the County. Lands makai of Hawaii Belt Road (Highway 11) are located within the Hawaiian Ranchos Subdivision, which are approximately three (3) acres in size and zoned Agricultural (A-3a). Both subdivisions primarily consist of scattered residential uses or vacant lands. The nearest dwelling is located on an adjacent property to the west. There is also a dwelling located just to the east and one on the corner lot across Aloha Boulevard to the southwest. The existing structure has met all setback and height requirements to minimize impacts to the surrounding properties. The requested use will be conducted entirely within an existing dwelling. The applicant submitted numerous letters and signatures of support for the request. The Planning Department has not received any letters of opposition from the public or neighbors as of this writing. Based on the above discussion, the applicant has met this criterion.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. Access to the property will be from Aloha Boulevard, which is a two-lane, private road that has a 20-foot wide asphalt pavement within a 60-foot right-of-way. Aloha Boulevard is accessed directly from the Hawaii Belt Road.

Although County water is not available to the site, the applicant will utilize an existing water catchment system and a sealed 4,000-gallon holding tank water tank for potable water. Wastewater will be disposed of into an existing cesspool system. A condition of approval will be added that the applicant also provide an additional 10,000-gallon water tank for fire protection based on comments received from the Fire

Department and the Civil Defense Agency. All other essential utilities and services are available to the site. Based on the above discussion, the applicant has met this criterion.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. Both State and County land use laws designate the project site and surrounding area for agricultural uses. However, the Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos Subdivisions must still provide their residents with the basic necessities of life, such as accessibility to food, personal services, including medical services, and other commodities typically found within an established community. Through the issuance of a Special Permit, a community may establish various "non-agricultural" services to provide its residents as well as travelers in the area with a quality of life that many of our residents in urban communities may take for granted. As a result, the trend in the area of Hawaiian Ocean View Estates and Hawaiian Ranchos Subdivision has been to issue Special Permits for urban types uses in appropriate locations. These established uses include, but are not limited to, a general store, gas station, post office, hardware store, restaurants, and other types of commercial and industrial uses on both sides of the Hawaii Belt Road (Highway 11) within the Hawaiian Ocean View Estates and Hawaiian Ocean View Ranchos Subdivisions. Additionally, there have been several Special Permits approved in the vicinity of the proposed request. These include a pre-school and a real estate office. In the case of the applicant, they are requesting to allow the establishment of a primary health care clinic within an existing dwelling through the Special Permit process. This request is in line with the previous requests for non-agricultural types of uses in this area. Based on the above discussion, the applicant has met this criterion.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The soil within the subject property is classified as "E" or Very Poor for agricultural productivity and unclassified by the Agricultural Lands of Importance to the State of Hawaii (ALISH) Map. The property primarily consists of Aa lava, which is poorly suited for cultivation. Furthermore, the Special Permit process, established by legislation, allows for other uses to be established for which the district is classified, provided the objectives of Chapter 205, HRS, are promoted. Therefore, this criterion has been met.

(F) The proposed use will not substantially alter or change the essential character of the land and present use. Although the current zoning for this area is identified as agricultural, the essential character of the land and its present use is rural. Within rural areas, allowable uses with appropriate zoning may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. The applicant is proposing to establish a primary health care clinic within an existing dwelling, which will not substantially alter or change the character of the land and/or its present use. Therefore, the applicant has met this criterion.

(G) The request will not be contrary to the General Plan and official Community Development Plan and other documents such as Design Plans. The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document's goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The area where the proposed request would be located is designated as Rural, which includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. Typical lot sizes vary from 9,000-square feet to two acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities.

The approval of the subject request would support the goals and policies of the Land Use, Economic and Public Facilities elements of General Plan.

Land Use Element

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Economic Element

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County's natural and social environments.
- Economic development and improvements shall be in balance with the physical, social and cultural environments of the island of Hawaii.
- Provide an economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County's cultural, natural and social environment.

Public Facilities: Health

- Encourage the establishment or expansion of community health centers and rural health clinics.

The proposed request would provide nursing and health care services, including health promotion services that is presently lacking for the residents of the Hawaiian Ocean View and Hawaiian Ranchos Subdivisions. Currently, area residents travel to Naalehu or Kealahou to obtain these similar services. Additionally, the proposed request would provide new employment opportunities for the residents of Kau. Based on the above information, the applicant has met this criterion.

Lastly, the proposed use is consistent with the objectives, policies, and guidelines of the Special Management Area as provided by Chapter 205A, HRS, and Rule No. 9 of the Planning Commission Rules of Practice and Procedure. No known or commissioned floral or faunal studies have been done for the site. The property is presently developed with a single-family dwelling and is landscaped with Macadamia nut trees, Norfolk Pines, Plumeria trees, Jacaranda trees, Bougainvillea and assorted fruit trees. The Hawaiian Hawk and Owl, as well as bats, have been known to frequent the general area. Therefore, it is unlikely that any archaeological features and threatened species of plant or animal are present on the property. The applicant is unaware of any traditional and customary Native Hawaiian rights that are practiced on the property. Therefore, no action is necessary to protect these rights.

There is no designated public access to the mountain areas or to the shoreline traversing the subject property. The property is located approximately 6 miles from the coastline. It is anticipated that the proposed use will not adversely impact any archaeological resources, gathering rights, recreational resources, scenic resources, open space, coastal ecosystems, and marine and coastal resources. Further, the property is not affected by any coastal hazards or beach erosion.

Based on these considerations, the approval of the Special Permit request would be supportive of the objectives sought to be accomplished by the Land Use Law and Regulations. Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The health clinic shall be established within two (2) years from the effective date of this permit. This time period shall include securing Final Plan Approval for the proposed use from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the clinic. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in

accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

3. The clinic shall not allow patients to stay overnight and there shall be no narcotic drugs stored at the clinic, or dispensed at the clinic except by a licensed physician.
4. Hours of operation shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 noon on Saturday.
5. The applicant shall install an additional 10,000-gallon reservoir to comply with fire-flow requirements meeting with the approval of the Fire Department.
6. The applicant shall comply with all applicable laws, rules and regulations of the State and County agencies for this proposed use.
7. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:
 - A. Non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence.
 - B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

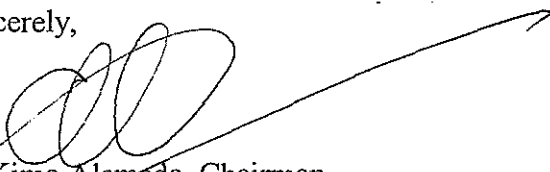
Should any of these conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to revoke this permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Steven S. C. Lim, Esq.
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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



C. Kimo Alameda, Chairman
Planning Commission

Lcrosby01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
State Land Use Commission
Department of Land & Natural Resources
Ms. Vickie L. Crosby