

County of Hawai'i

LEEWARD PLANNING COMMISSION

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

May 3, 2010

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

Dear Mr. Lim:

Special Permit Application (SPP 10-000099)
Applicant: Advanced Solutions Group, LLC
Request: To Allow an Approximately 26-Stall Parking Lot and Related
Improvements to Serve the Veterans Affairs Clinic on Adjacent Property
Tax Map Key: 7-5-10:64

The Leeward Planning Commission at its duly held public hearing on April 16, 2010, voted to approve the above-referenced application to establish a parking lot with approximately 26 stalls and related improvements on approximately 16,000 square feet of land situated within the State Land Use Agricultural District. The property is located north of the Veterans Administration Health Care Clinic on the east side of Hualālai Road near the Hualālai Road – Queen Ka'ahumanu Highway intersection, Pua'a 3rd, North Kona, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Special Permit to establish a parking lot with approximately 26 stalls and related improvements on approximately 16,000 square feet of land to serve the Veteran's Administration Health Care Clinic (VA Clinic) which is located on the adjacent parcel (TMK 7-5-17:20) to the south of the subject property. The asphalt-paved parking lot would be constructed in the southern portion of the 1.824-acre subject property. The VA Clinic provides non-emergency primary health care to eligible veterans and is approximately 4,992 sq ft in size with a total of 17 parking stalls. There are approximately 15 medical staff employees with one full-time primary care doctor. Additionally, ten specialty doctors (e.g. cardiology, neurology) arrive from Honolulu at least once a month on different days to service patients for the day. The parking lot will

be open during the hours of operation for the VA Clinic, which is Monday through Friday from 7:00 a.m. to 4:00 p.m. Specific improvements will include the following:

- Remove existing vegetation, rocks and obstacles, grade and pave the project site to create approximately twenty six (26) standard-sized parking stalls;
- Construct a new driveway connection to Hualālai Road further north of the existing VA Clinic driveway;
- Install a new concrete walkway from the parking lot to the adjacent Ferren Medical Clinic to the north and to the existing VA Clinic to the south;
- Connect the new parking lot with the existing VA Clinic parking lot.

The VA Clinic primarily services veterans with stable chronic health problems with almost half of its patients having physical disabilities that restrict them from being able to walk long distances. Although there are currently 17 parking stalls servicing the VA Clinic, the number of patients and medical staff has nearly doubled since its opening in 2007, forcing patients to park along Hualālai Road. This exacerbates the limited sight distance situation on Hualālai Road because the existing VA Clinic driveway is located in close proximity to the Y-shaped Hualālai Road – Queen Ka‘ahumanu Highway intersection. Construction of the additional parking stalls will provide off-street parking for the VA Clinic which will serve the dual purpose of making it easier for patients to access the facility and improve traffic safety on Hualālai Road.

The criteria for approving a Special Permit are based on Rule 6-6 in the Planning Commission Rules. Rule 6-6 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, Hawai‘i 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 the State Land Use Law and Regulations and Chapter 205, HRS, as amended. 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 Hawai‘i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use. 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.

The proposed use is unusual in that it is not agricultural in nature, but is a reasonable use within the Agricultural District because it will provide a safer parking environment for the VA Clinic patients and employees and improve sight distance on Hualālai Road by creating a new primary driveway further from the Hualālai Road – Queen Ka‘ahumanu Highway intersection.

In addition to the above listed criteria, the Planning Commission shall also consider the following criteria listed under Section 6-3(b)(5) (A) through (G) of its rules of practice and procedure:

(A) Such use shall not be contrary to the objectives sought to be accomplished by the Land Use Law and Regulations. The subject property is not classified as prime agricultural land. Thus the proposed use is considered an unusual and reasonable use of the agricultural land that will not adversely affect the preservation and agricultural use of the County’s prime agricultural lands.

(B) The desired use would not adversely affect surrounding properties. Surrounding properties are zoned A-5a, RM-4 and CV-10. To the north, on the subject property is the Ferrin Medical Clinic within the landowner’s single-family dwelling. The Queen Ka‘ahumanu Highway is located immediately to the east. The VA Clinic is located immediately to the south of the permit area. Across Hualālai Road to the west are the Hualālai Village Condominiums. The parking lot will be open for use during the business hours of the VA Clinic which is from 7:00 a.m. to 4:00 p.m., Monday through Friday. As a condition of approval, the applicant will be required to install landscaping along the Hualālai Road right-of-way and within the parking lot to mitigate any potential adverse noise or visual impacts to adjacent properties. Additionally, all lighting within the parking lot will be shielded downward. These requirements should further minimize the possibility of adverse impacts to the surrounding area.

(C) The proposed 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 existing VA Clinic and the subject property is via Hualālai Road, which is a County roadway with an approximately 28-foot wide pavement in good condition, with paved shoulder, within an approximately 40-foot wide right-of-way. Queen Ka‘ahumanu Highway, which is a State owned and maintained roadway intersects Hualālai Road south of the property. When the existing VA Clinic driveway was approved by the Department of Public Works it was restricted to right-turn in/right-turn out movements only, because its close proximity to the Y-shaped Hualālai Road – Queen Ka‘ahumanu Highway intersection creates limited sight distance. To improve the sight distance, the applicant proposes a new asphalt paved driveway located further north of the existing VA clinic driveway to serve as the main driveway for the VA Clinic and

parking lot. The Department of Public Works is concerned that vehicles turning right out of the existing VA Clinic driveway may conflict with vehicles turning left out of the new parking lot driveway, and therefore recommends that the new parking lot driveway be the only permitted exit from the VA Clinic property. They are also recommending the applicant provide a sight distance study to ensure that the new driveway is located appropriately to meet minimum sight distance standards. Should the sight distance study indicate that minimum sight distance requirements can not be met; the proposed driveway may need to be restricted to a right-turn in/right-turn out movements only. The Department of Public Works will make that determination after reviewing the sight distance study. The Planning Department believes these recommendations are reasonable to maintain traffic safety on Hualālai Road and will therefore include them as conditions of approval.

County water is currently available to the VA Clinic via a 5/8-inch meter connected to an 8-inch waterline in Hualālai Road. According to the Department of Water Supply (DWS), this meter is limited to an average daily usage of 400 gallons which is currently being exceeded. Therefore, the applicant will likely need install a larger or new water meter on the VA Clinic property to provide water to the site for landscaping purposes. The DWS is also recommending the installation of a backflow prevention assembly for any meter serving the site. Conditions of approval will include the Department of Water Supply's recommendations. No wastewater disposal will be needed for the proposed parking lot. Solid waste will be disposed of through commercial hauling contractors if needed. All other essential utilities and services are available to the site. Based upon the above information, the proposed use will not unreasonably burden public agencies to provide infrastructure and services to the site.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. The project site and surrounding areas are designated for agricultural uses by both State and County land use laws but the area has become more urban in nature since the land use boundaries were established. Additionally, the demand for medical services at the VA Center has doubled since its opening in 2007 due to the ongoing armed conflicts in Iraq and Afghanistan. The proposed parking lot will provide much needed off-street parking for the VA Clinic. Thus the issuance of a Special Permit for the proposed "non-agricultural" use is appropriate.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. Soils on the project site are classified as “E” or “Very Poor” by the Land Study Bureau’s Overall Master Productivity Rating and unclassified by the Department of Agriculture’s ALISH Map. The property has not been used for commercial agriculture in the past and due to its poor soil qualities is not ideal for producing sustained high agricultural yields. Based on the above information, it has been determined that the land upon which the proposed use is sought is unsuited for the uses permitted within the district.

(F) The use will not substantially alter or change the essential character of the land and the present use. The current character of the approximately 16,000-square foot project site is vacant land with heavy vegetation situated adjacent to the existing VA Clinic building and parking lot. The proposed parking lot is minimal in size and will appear to be an extension of the existing VA Clinic facility as it will connect to and match the existing paved driveway and parking lot on the VA Clinic property. Therefore, the essential character of the land will not be substantially altered.

(G) The request will not be contrary to the goals, policies, objectives and actions of the General Plan, Kona 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 property is designated Medium Density Urban, which is defined as village and neighborhood commercial and single family and multiple family residential and related functions (multiple family residential - up to 35 units per acre). The proposed use will provide additional off-street parking for the adjacent VA Clinic which is consistent with the LUPAG designation and the Kona CDP guiding principle of providing infrastructure and essential facilities concurrent with growth to enhance the quality of life for Kona residents. Additionally, approval of the requested use would support the Transportation Element goal of the General Plan of providing a transportation system whereby people and goods can move efficiently, safely, comfortably and economically. Based on this information, the proposed use will not be contrary to the goals, policies, objectives and actions of the General Plan.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai‘i Revised Statutes, relating to the coastal zone management program. The property is located about one mile from the shoreline but is outside of the Special Management Area (SMA) and tsunami evacuation zone. There is no designated public access to the mountain or shoreline areas over the property.

Therefore, the proposed use will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space nor visual resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion. Therefore, the proposed use is not contrary to the objectives of Chapter 205A, Hawai‘i Revised Statutes.

Based on the above considerations, the approval of the request to establish an approximately 26-stall parking lot and related improvements would support 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(s), its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant shall submit the anticipated maximum daily water usage calculations for parking lot landscaping purposes as recommended by a registered engineer to the Department of Water Supply within one hundred eighty (180) days from the effective date of this permit. Prior to receipt of Final Plan Approval the applicant shall install a larger or additional meter on TMK 7-5-17:20 and remit the prevailing facilities charge, if required by the Department of Water Supply.
3. The applicant shall install a reduced pressure type backflow prevention assembly on private property within five feet of any meter serving the site, which must be inspected and approved by the Department of Water Supply.
4. The applicant shall relocate and adjust the Department of Water Supply’s water system facilities that are affected by construction of improvements, required by this permit, within the Hualālai Road right-of-way fronting the subject property.
5. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this permit. This time period shall include securing Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai‘i County Code. Landscaping shall be provided in accordance with Section 25-4-59.3 of the Zoning Code and Planning Department Rule 17.
6. All parking lot lighting shall be shielded downward.
7. The applicant shall provide a sight distance study prepared by a licensed civil engineer for approval by the Department of Public Works prior to construction of any new driveway connections to Hualālai Road. All driveway connections to Hualālai Road shall meet with the approval of the Department of Public Works

and shall conform to Chapter 22, Streets and Sidewalks, Hawai'i County Code and County standard details R-37, R-38 and D-35.

8. The applicant shall provide improvements to Hualālai Road necessary to construct the driveway approach, meeting with the approval of the Department of Public Works. Should additional intersection improvements such as striping for a left-turn lane be required in the future, the applicant shall provide such improvements in a timely manner at no cost to the County.
9. The following access conditions shall apply to the use of the proposed parking lot that supports the VA Center, meeting with the approval of the Department of Public Works: 1) the new driveway from the subject property onto Hualālai Road shall serve as the sole full access driveway to the VA Clinic property (TMK: 7-5-17:20), and 2) the existing "right-turn out" exit from the VA Clinic property shall be closed off.
10. The applicant shall install streetlights and traffic control devices as may be required by the Department of Public Works -Traffic Division. The applicant shall be responsible for the design, purchase, and installation of such devices.
11. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and the recommended drainage system shall be constructed meeting with the approval of the Department of Public Works.
12. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
13. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
14. Comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires an NPDES permit for certain construction activities.
15. Comply with Chapter 23, Underground Injection Control, Hawai'i Administrative Rules, Department of Health, for any underground injection systems that will receive wastewater or storm runoff from the development.

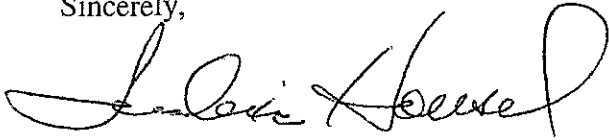
16. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigative measures have been taken.
17. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
18. An initial extension of time for the performance of conditions 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 applicants, 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).
 - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.
19. Should any of these conditions not be met or substantially complied with in a timely manner, the Planning Director may initiate procedures to revoke this permit.

Steven S. C. Lim, Esq.
Page 9

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.

Should you have any questions, please contact the Planning Department at 961-8288.

Sincerely,

A handwritten signature in black ink, appearing to read "Frederic Housel". The signature is fluid and cursive, with a large loop at the end.

Frederic Housel, Chairman
Leeward Planning Commission

Ladvancedsolutionsspp10-000099

cc: Advanced Solutions Group, LLC
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-HPD
DOT-Highways, Honolulu
Mr. Gilbert Bailado