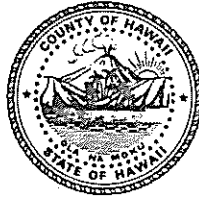


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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APR 24 1998

Gregory R. Mooers, President
Mooers Enterprises
P.O. Box 1101
Kamuela, HI 96743

Dear Mr. Mooers:

Use Permit Application (USE 98-1)
Request: Establish a 129-Unit Assisted Living Facility
Applicant: Regency Pacific, Inc.
Tax Map Key: 7-5-10:15

The Planning Commission at its duly held public hearing on April 17, 1998, voted to approve the above-referenced application. Use Permit No. 174 is hereby issued to allow the development of a 129-unit assisted living facility and related improvements. The property is located on the east side of Hualalai Road, adjacent and south of the Keopu Flood Channel and across of the Hualalai Center, Hienaloli 2nd, North Kona, Hawaii.

Approval of this request is based on the following:

The proposed use will be consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan. The establishment of a 129-unit assisted living facility and related improvements, on a parcel located within the State Land Use Urban and the County's Multiple Family Residential (RM-1) zoned district may be permitted through the Use Permit review process. The Use Permit process provides an avenue to review and analyze a proposed project on a case-by-case basis relative to infrastructure and impacts on surrounding properties and existing uses as well as the General Plan goals and policies. The intent and purpose of the Zoning Code is to promote health, safety, morals or the general welfare of the community through regulations and restrictions relative to the location and use of buildings, off-street parking, the percentage of lots that may be occupied, the density of population and land for trade, industry, residence or other purposes.

Although the Kona Regional Plan designates the area for residential use at a density of 10 units per acre, the subject property is situated within the Medium Density area of the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. Medium Density allows for village and neighborhood commercial and residential

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related functions (3-story commercial; residential - up to 35 units per acre. Mindful of the type of service the applicant will provide to the residents of West Hawaii, the proposed use will compliment the following goals, policies and standards of the Land Use and Multiple Family Residential Elements of the General Plan.

GOALS

- * To provide for multiple residential developments that maximize convenience for its occupants.
- * To provide for suitable living environments which accommodate the physical, social and economic needs of the island residents.

POLICIES

- * Appropriately zoned lands shall be allocated as the demand for multiple residential dwellings increases. These areas shall be allocated with respect to places of employment, shopping facilities, educational, recreational and cultural facilities, and public facilities and utilities.
- * The rehabilitation and/or utilization of multiple residential areas shall be encouraged.

The proposed request would also complement the following Housing Element goals and policies by creating a mix of residential housing opportunities, maintaining a housing supply that allows a variety of choice and by providing housing units geared toward the middle income bracket.

- * Attain safe, sanitary and livable housing for the residents of the County of Hawaii.
- * Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- * Maintain a housing supply which allows a variety of choice.
- * Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- * Improve and maintain the quality and affordability of the existing housing stock.
- * Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals.
- * Ensure that housing is available to all persons regardless of age, sex, marital status, ethnic background and income.

The proposed use would also conform to the following goals and policies of the Economic Element:

- * Provide residents with opportunities to improve their quality of life.
- * Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- * The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

The Kona Regional Plan adopted by the Planning Commission in 1984 is intended to provide short and middle range implementation strategies for the goals, policies and land use pattern presented in the General Plan. The Kona Regional Plan and its Zone Guide Map, adopted over 10 years ago, suggested a Residential Uses with a density of 10 units per acre, designation for the project site, and recognized the need for multiple family residential uses for the project site. The property is situated adjacent to major urban/retail/employment centers of Kailua Village, and the proposed use will support diversification of the economic base for the County. Approval of the subject request would be consistent with the policy direction established by the General Plan.

The desired use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or surrounding properties. The subject property is located on Hualalai Road across Hualalai Center and Aloha Kona Subdivision. The lands surrounding the subject parcel are zoned RM-1, RM-4, CV-7.5, RS-10, and V-1.25. A condition of approval will be included to ensure the view onto the subject parcel from surrounding uses/properties in the area will be screened by the trees which will be incorporated into the landscaping. All parking for residents will be off-street and parking activities will likewise be screened by the surrounding landscape buffer. The site has been used for the grazing of cattle for decades and has been recently grubbed. The only vegetation remaining on the property are a few Keawe trees along the frontage with Hualalai Road and some alien grasses under trees and near the remnants of the Kuakini Wall. The site is not a habitat for any rare or endangered species. The only faunal resources observed were mongoose and field mice. The existing topography will be preserved where possible and a minimum amount of grading is planned for the project. The Environmental Report identified one significant archaeological resources which will be preserved within the project. This is a portion of the Great Wall of Kuakini.

The Flood Insurance Rate Map (FIRM) designation for more than half of the property is in Zone "X," areas determined to be outside the 500 year flood plain. The balance of the property is in "shaded X," less than one foot of flooding during a 500 year flood. The subject property is adjacent to the Keopu Flood Channel on the eastern and northern end boundaries. There are no known drainage improvements on site. The project will be developed in full compliance with the flood control measures. Any improvements to the property must comply with Chapter 27 of the County Code relating to Flood Hazard Control. While there are no indications of surface water flow

on-site, the applicant will abide by all applicable County guidelines for run-off generated by the development.

The Department of Health requires that if there is any type of process wastewater discharge from the project into State waters the applicant may be required to apply for an individual National Pollutant Discharge Elimination System (NPDES) Permit.

The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. The project location is ideally situated for an assisted living facility. The project will provide an independent way of life to those people experiencing some degree of frailty or need in the daily activities of living. This proposed project will feature many amenities for the residents lifestyle, including on-site management and security, gourmet dining room meals (restaurant style), Eloombe emergency call system, maid service, mini-van transportation, laundry service and many social recreational activities. The intended market for these units is the active senior citizens of West Hawaii, the Island of Hawaii and throughout the State of Hawaii. These will include those who are in the middle-income socio-economic level who are seeking a high quality, active retirement. The assisted living apartments will cater to older residents who may need daily assistance with some of the basic activities of life. There will be 36 to 40 employees hired for various positions at this facility with an average of 12 to 15 on-site at anytime during the day. As a residential facility, the proposed project will operate on a 24 per day schedule, 365 days of the year. The proposed project will contribute positively to the generally residential character of the neighborhood.

The desired use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, police and fire protection and other related infrastructure. The project site is located within an area adequately served with essential services and facilities such as water, transportation systems, and other utilities. Roadway improvements to Hualalai Road, including curb, gutter and sidewalks along the Hualalai Road frontage shall be constructed. The design of the parking lot, sight distances and driveway entrance will ensure safe ingress and egress to the project site while minimizing congestion associated with turning movements on Hualalai Road. Water is readily available from existing facilities on Hualalai Road. Police and fire protection services are provided by existing facilities and manpower. The applicant has stated that they will tie into the Kealakehe Wastewater Treatment Plant.

Based on the above findings, it is determined that this request for the development of an assisted living facility is approved.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.

2. The effective date of the Use Permit shall be the effective date of the change of zone ordinance. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of the change of zone ordinance.
3. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to commencing construction, Final Plan Approval for the proposed improvements shall be secured from the Planning Director in accordance with Chapter 25-2-70 of the Zoning Code. Plans shall identify the proposed structures, vehicular traffic, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties. Landscaping along the project site's boundaries shall be provided to the extent that a continuous, unbroken, heavy planting screen, no less than 5 feet in height, is established prior to the issuance of a certificate of occupancy.
4. Access to the subject property from Hualalai Road shall meet with the requirements of the Department of Public Works. The entrance roadway sight distance shall meet the requirements of the Statewide Design Manual.
5. Hualalai Road shall be improved equal to half the difference between 50 feet and the existing right-of-way width, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy. These improvements shall be dedicated to the County of Hawaii upon its request.
6. In order to ensure the safety of bicyclists and pedestrians, the applicant shall construct cur, gutter and sidewalks, and relocate utilities, along the entire Hualalai Road frontage of the property meeting with the approval of the Department of Public Works. All these improvements shall be completed prior to the issuance of a certificate of occupancy.
7. A Traffic Impact Analysis Report to enable proper design of roadways shall be prepared and submitted for approval by the Department of Public Works prior to submittal of plans for Plan Approval review.
8. A Drainage Study shall be prepared for review and approval by the Department of Public Works. The drainage study shall be submitted to Federal Emergency Management Agency (FEMA) and a letter of map revision (LOMR) or a Physical Map Revision (PMR) shall be issued prior to construction with the approval of the Department of Public Works, if required.
9. Sewer lines shall be installed within the development to tie in with the Kealakehe Wastewater Treatment Plan, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.

10. A Solid Waste Management Plan for the development shall be prepared and submitted for approval by the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. A copy of the approved Plan shall be submitted to the Planning Department for its files.
11. A Cultural Resources Management Plan shall be submitted for sites recommended for preservation including the Kuakini Wall. The management plan shall include provisions for buffer areas, structural setbacks and a maintenance program shall be submitted to the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) and the Planning Department for review and approval. Approval of the plan shall be secured from the DLNR-HPD prior to final subdivision approval of any portion of the subject property.
12. 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-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
13. Comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development.
14. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this change of zone. The report shall address in detail the status of the development and the compliance with the conditions of approval. This condition shall remain in effect until all of the conditions of approval have been complied with and the Director acknowledges that further reports are not required.
15. An initial extension of time for the performance of conditions within the permit may be granted by the Director upon the following circumstances:
 - A. The 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 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).

Gregory R. Mooers, President
Mooers Enterprises
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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 feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Kazu Hayashida, Director/DOT-Highways, Honolulu
Department of Land and Natural Resources
Regency Pacific, Inc.