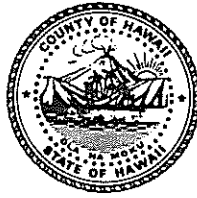


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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Z 095 324 268

OCT 26 1998

Christopher L. Lau, President
Towne-Kona Limited Partnership
220 South King Street, Suite 2170
Honolulu, HI 96813

Dear Mr. Lau:

Use Permit No. 154 (USE 154)

Applicant: Towne-Kona Limited Partnership

Request: Amend Use Permit No. 154 to Allow an Approximately 180-Unit Assisted Living Facility, 120-Unit Skilled Nursing Facility, Wellness Center and Related Improvements and Amendment to Condition No. 4 (Commence Construction)

Tax Map Key: 7-5-19:5, 38 and 40; 7-5-18:61

The Planning Commission at its duly held public hearing on October 16, 1998, voted to approve the above-referenced request. Use Permit No. 154, which allowed the development of a 100-unit assisted living (old age) facility and related improvements, on approximately 33.237 acres of land situated within the County's Multiple Family Residential (RM-4 and RM-7) zoned district is hereby amended to allow an approximately 180-unit assisted living facility, 120-unit skilled nursing facility, wellness center and related improvements. Condition No. 4 of Use Permit No. 154 is also amended relating to the commencement of construction requirement. The property is located between Kuakini Highway and Alii Drive, adjacent and to the south of Lunapule Subdivision at Waiaha 2nd and Kahului 1st, 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 an approximately 180-unit assisted living facility and an approximately 120-unit skilled nursing facility and related improvements in lieu of the presently approved 100-unit assisted living facility, and to amend Condition No. 4 relating to commencement of construction and landscaping on a parcel located within the State Land Use Urban District and the County's Multiple Family Residential (RM-4 and RM-7) 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

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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 Expansion, 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 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 Single Family Residential Elements of the General Plan.

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- o The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- o To maximize choices of single-family residential lots and/or housing for residents of the County.
- o To ensure compatible uses within and adjacent to single-family residential zoned areas.
- o To provide single-family residential areas conveniently located to public and private services, shopping, other community activities and convenient access to employment centers.
- o The County shall designate and allocate single-family residential zoned lands at varying densities for future use in accordance with the needs of the communities and the stated goals, policies and standards.
- o Areas shall have basic improvements and amenities necessary for immediate use.
- o Areas shall be limited to low-density and medium density residential uses.

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.

- o Attain safe, sanitary and livable housing for the residents of the County of Hawaii.

- o Attain a diversity of socio-economic housing mix throughout the different parts of the County.
- o Maintain a housing supply which allows a variety of choice.
- o Develop better places to live in Hawaii County by creating viable communities with decent housing and suitable living environments for our people.
- o Improve and maintain the quality and affordability of the existing housing stock.
- o 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.
- o 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:

- o Provide residents with opportunities to improve their quality of life.
- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- o 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 Expansion designation for the project site, and recognized the need for interim village and neighborhood commercial uses for the project site. The property is situated midway between the urban/retail/employment centers of Kailua Village and Keauhou, 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 between Kuakini Highway and Alii Drive, adjacent and to the south of Lunapule Subdivision. The lands surrounding the subject parcel are zoned Resort and Single Family Residential. The view to 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 as required by the County's new Rule No. 17 (Landscaping Requirements). It is not anticipated that endangered or threatened candidate species of flora or fauna are located

within the project site, nor has the area been identified as a significant botanical or biological habitat. The existing topography will be preserved where possible and a minimum amount of grading is planned for the project. Archaeological studies have identified three significant resources which will be preserved within the project. These are a heiau (site 6322), portions of the Kuakini Wall (site 6302) and a "crypt" (site 6305).

The FEMA maps indicate the property is located within the Waiaha Flood Plain and designated Zone A by the Army Corp of Engineer's Federal Flood Insurance Rate Map. Zone A is defined as areas susceptible to 100-year flooding. The Department of Public Works has recommended that a drainage study be submitted to FEMA and that a Letter of Map Revision (LOMR) or a Physical Map Revision (PMR) be issued prior to construction.

The applicant has indicated that the portions of the property which are located within the 100-year flood plain will remain as a "greenbelt" for the project. The flood plain will not be built upon; however, there will be some paved roadway crossings on it. The flood plain will be landscaped and maintained.

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 NPDES permit. The applicant has stated that they will file a Notice of Intent for a NPDES permit.

The proposed use will not adversely affect similar or related existing uses within the surrounding area, community or region. The project location, midway between Kailua and Keauhou, 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 assistance in the daily activities of living. The proposed structure will be four stories in height, concrete and totally protected from fire. There will be studio apartments, each with kitchenette, large ADA bathroom, and ample closet space will be built. The four-story structure will have a "plantation" look, with colorful window awnings on the exterior, with a combination of horizontal siding and stucco finishes. 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 and 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. Proper layout 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 Alii Drive. A Traffic Impact Analysis Report should be performed to determine the increase traffic associated with the project. In order to ensure the safety of bicyclists as well as pedestrians, the Department of Public Works stated that the applicant should provide a full width paved shoulder along the entire frontage of the property. A condition of approval will be included to ensure the public safety. Water is readily available from existing utilities. Improvements to existing utilities are necessary for the project and

will be provided by the applicant. Police and fire protection services are provided by existing facilities and manpower. According to the Department of Public Works, the applicant should install sewer lines to tie in with the Honokohau Wastewater Treatment Plant.

Existing conditions are still applicable to the revised development. The indemnification condition is being deleted as it is no longer included as a condition in permits. Condition No. 4, regarding construction is reworded to reflect present day language in terms of a time frame for completing construction rather than commencing construction. Provisions are also included for landscaping in accordance with the Planning Department's Rule No. 17.

Based on the above findings, this request is hereby approved subject to the following conditions, which are renumbered accordingly (new material underscored and deleted material is bracketed). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall 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 applicant, its 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 applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.]
- [3.]2. The applicant, its successors or assigns shall be responsible for complying with all conditions of the Change of Zone Ordinance No. 96-61.
- [4.]3. Construction of the proposed development shall [~~commence~~] be completed within [~~five (5)~~] ten (10) years from the effective date of this [~~permit~~] amendment. Prior to commencing construction, Final Plan Approval for the proposed improvements shall be secured from the Planning Department 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~~] for the project [~~site's boundaries~~] shall be provided in compliance with Planning Department Rule No. 17 (Landscaping Requirements) [~~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.
- [5.]4. Access, roadway and any drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
- [6.]5. In order to ensure the safety of bicyclists and pedestrians, the applicant shall extend the paved shoulders along the entire Alii Drive 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.]6. A Traffic Impact Analysis Report to enable proper design of roadways and traffic intersections, including a left turn lane on Alii Drive, shall be prepared and approved by the Department of Public Works.
- [8.]7. Sewer lines shall be installed within the development to tie in with the Honokohau Wastewater Treatment Plan, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
- [9.]8. A Solid Waste Management Plan for the development shall be prepared and approved 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.
- [10.]9. Should any improvements be proposed within the designated floodway, a 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.
- [11.]10. A Data Recovery Plan and Preservation Plan shall be prepared for the review and approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for plan approval review and prior to any approval for any land alteration permits.
- [12.]11. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.
- [13.]12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

- [14.]13. An extension of time for the performance of conditions within the permit may be granted by the Planning 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 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).

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 of the Planning Department at 961-8288 or Royden Yamasato of the Planning Department West Hawaii Office at 327-3510.

Sincerely,



K Kevin M. Balog, Chairman
Planning Commission

LTown01.PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Kazu Hayashida, Director/DOT-Highways, Honolulu
Mr. William L. Moore