

County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
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April 23, 2007

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Use Permit Application (USE 07-000006)

Applicant: Hospice of Hilo

Request: General In-Patient Facility and Support Services on 3.5 Acres
Zoned RS-10

Tax Map Key: 2-4-1:portion 24

The Planning Commission at its duly held public hearing on April 5, 2007, voted to approve the above-referenced application to allow the establishment of a general in-patient facility and support services on 3.5 acres of land situated within the Single Family Residential 10,000 square foot (RS-10) district. The property is located along the mauka side of the Kapiolani Street extension across from the Christ Lutheran Church and approximately 500 feet southwest of the Kapiolani Street extension – Mohouli Street intersection, Waiakea, South Hilo, Hawaii.

Approval of this request is based on the following:

The applicant is requesting a Use Permit to allow the establishment of an in-patient facility to provide hospice care for their clients. The proposed hospice center will provide a home-like setting for its patients, complete with landscaped environment. All rooms will be fully furnished with a bed, sitting area, private bath and sleeping area in the room for visiting family member or friend. The project, to be completed in phases, includes:

- an approximately 14,150-square foot one-story building not exceeding 30 feet in height, not including future additions
- staff and administrative offices, including storage space
- conference rooms and office/outreach space
- multi-denominational chapel and meeting room

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- patient/staff kitchen and dining area
- visitor and children meeting rooms, including a family Ohana room
- staff and visitor restrooms, laundry and storage room
- outpatient palliative care examination room
- parking, including ADA accessible stalls
- landscaping
- 36 parking stalls, including five ADA accessible stalls.

The applicant states, "typically, end of life or hospice care is provided in a patient's home. However, there are many who cannot be properly serviced in a home for a variety of reasons, such as one who does not have a caregiver or support from family or friends. The alternative is to enter into a long term care facility or hire private care givers, both of which are expensive options. A study commissioned by Hospice of Hilo (HOH) in 2001 identified a need for a minimum 12-bed facility. The HOH entered into a partnership with the Hilo Medical Center for two residential beds for its clients. Since its inception, the rooms have been occupied more than 90% of the time, confirming the earlier needs assessment study." The HOH hopes to meet the growing need for in-patient services, particularly with the increase in the aging population. In 1997, HOH served 47 patients, and the number has increased to 317 in 2006.

Rule 7 (Use Permits) of the Planning Commission's Rules of Practice and Procedure states that the Planning Commission may approve a Use Permit based on the certain criteria. Section 7-6, Criteria for Granting a Use Permit, states:

"The Commission may approve a Use Permit upon finding that:

- (a) The granting of the proposed use shall be consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the County General Plan;
- (b) The granting of the proposed use shall not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties; and
- (c) The granting of the proposed use shall not unreasonably burden public agencies to provide roads and streets, sewer, water, drainage, schools, police and fire protection and other related infrastructure."

The proposed use in the State Land Use Urban district and Single-Family Residential 10,000 square feet (RS-10) zoned district may be allowed through the granting of a Use Permit. 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 goals and policies of the General Plan. 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.

The proposed project will complement the goals, policies and standards of, among others, the Land Use and Economic Elements of the General Plan. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the property as Low Density Urban, which includes residential uses, with ancillary community and public uses, and neighborhood and convenience-type commercial uses. The property is unclassified by the Land Study Bureau's Detailed Land Classification System.

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 project site is a vacant, approximately 3.5-acre portion of a 39.456-acre parcel located south of Mohouli Street on the proposed Kapiolani Street extension. Surrounding properties are zoned RS-10 and in predominantly single-family residential uses. However, the Christ Lutheran Church is located on the Kapiolani Street extension directly across the property. A medical office is also located in close proximity northeast or makai of the proposed Kapiolani Street extension. The Higashi Honganji Church is located on the northern corner of Mohouli Street and Kapiolani Street. Therefore, the proposed use will not detract from the present character of the area, as a variety of urban uses characterize the area.

Due to the noise and traffic inherent to the activities already established in the area, it is not anticipated that noise and traffic associated with the proposed use will adversely impact surrounding properties. The applicant states that subsequent to the state's approval of their request, the University of Hilo's request to lease the balance of the 39+ acre site for possible faculty housing and nursing and pharmacology programs was also approved. Due to the relationship between the University's nursing program and the applicant's proposed in-patient facility, the applicant has been working with the University in planning future activities. The proposed use will supplement existing educational facilities in this area of Hilo. Noise sources that currently impact the project site are minimal. Short-term potential noise impacts are limited to construction noise associated with earthmoving equipment.

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. County water is available from an existing waterline along the Kapiolani Street extension fronting the property. Access to the project site is from the

Kapiolani Street extension. As part of the Capital Improvement Project request, the County has requested support from the Hawaii State Legislature to extend Kapiolani Street from Mohouli Street to Lanikaula Street.

The applicant proposes to use a wastewater system designed and constructed in accordance with the requirements of the State Department of Health. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing County erosion and sedimentation control regulations as well as standard construction practices and additional conditions proposed in this permit. All other utilities are available to the site. Police and fire stations are in close proximity to the property.

The subject request is not contrary to Chapter 205A, Hawaii Revised Statutes, relating to Coastal Zone Management Area. The property is not located in the Special Management Area. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. Thus, the proposed request and use of the property will not adversely impact those resources.

Rechtman Consulting, LLC conducted an assessment of potential effects to historic properties from the proposed development. A rock mound (Site 25548) was discovered on the site but was not considered a historic site. DLNR-HPD concurred with this finding. By letter dated November 20, 2006, the Department of Land and Natural Resources Historic Preservation Division concluded that "no historic properties will be affected by this undertaking."

The Final Environmental Assessment (FEA) concluded that there were no listed, candidate or proposed endangered plant species on the site. The FEA further stated that "because of the lack of native ecosystems and threatened or endangered plant species, no adverse impacts to botanical resources would occur as a result of clearing and improvements." As for faunal species, the Hawaiian Hawk and Hawaiian hoary bat have been sited in the area. However, the FEA concluded that there would be no adverse impacts to either species resulting from the proposed use. The site is not known to be a habitat for any endangered animal life.

According to the applicant, the Office of Hawaiian Affairs and the Hawaiian Civic Club in Hilo had no information relative to the existence of traditional cultural properties in the immediate vicinity of the project area. The applicant states that "as no resources or practices of a potential traditional cultural nature appear to be present on or near the project site, and there is no evidence of any traditional gathering uses or other cultural

practices, the proposed construction would not appear to impact any culturally valued resources or cultural practices.”

There is no record of a designated public access to the shoreline or mountain areas that traverses the property. According to the Flood Insurance Rate Map (FIRM), the property is located in Zone "X", area outside of the 500-year flood plain. There are no valued cultural, historical or natural resources on the property and no evidence of any traditional and customary Native Hawaiian rights being practiced on the site. Thus, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site:

Investigation of valued resources: As part of the FEA, the following documents were included in the application:

- Final Environmental Assessment, FONSI notice in the January 23, 2007 OEQC bulletin.
- Archaeological Report/Cultural Impact Assessment - *Request for SHPO Concurrence with a Determination of No Historic Properties Affected Pursuant to the National Environmental Policy Act and in Compliance with Section 106 of the National Historic Preservation Act, Hospice of Hilo Property*, by Rechtman Consulting, August 2006 .

The valuable cultural, historical, and natural resources found in the project area:

The property is currently vacant and unimproved; however, a condition will be included to require the applicant to notify the DLNR-HPD should any archaeological sites be encountered during the course of development. By letter dated November 20, 2006, the DLNR-HPD stated that "no historic properties will be affected by this undertaking."

Possible adverse effect or impairment of valued resources: The proposed development will require site preparation of the project area. Native plants could be destroyed by construction and ground alteration. As the property was surveyed for historical/archaeological resources, the possible adverse effect to any valued resources, if any, is minimal.

Feasible actions to protect native Hawaiian rights: There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area.

Therefore, no action is necessary to protect these rights.

Based on the above, the establishment of a one-story in-patient facility consisting of up to 18 beds would be compatible with the existing land uses and the physical and social environment of the area and promote the effectiveness and objectives of the Zoning Code and General Plan. Approval of the 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 this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Subdivision Approval shall be secured within three (3) years from the effective date of this permit.
3. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development 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 accesses and parking stalls associated with the proposed development. Landscaping shall be included on the plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17, Landscaping Requirements.
4. The height of the proposed structure shall not exceed the maximum allowable height of thirty-five (35) feet within the RS-zoned district.
5. All driveway connections to Kapiolani Street shall conform to Chapter 22, County Streets, of the Hawaii County Code.
6. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the issuance of a construction permit. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
7. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.

8. Septic tank(s) shall be installed, meeting with the standards and requirements of the State Department of Health, prior to the issuance of a Certificate of Occupancy.
9. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
10. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls 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.
11. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
12. 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. 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).

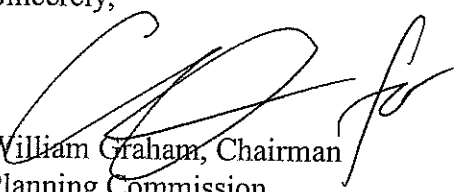
Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate the revocation of the Use Permit.

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.

Mr. Sidney Fuke
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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288, x205.

Sincerely,



William Graham, Chairman
Planning Commission

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cc: Ms. Brenda Ho
Department of Public Works
Department of Water Supply
County Real Property Tax Division - Hilo
DOT-Highways, Honolulu
DLNR-HPD Kona