



County of Hawai'i

WINDWARD PLANNING COMMISSION

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OCT 18 2011

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Dear Ms. Zelko:

Use Permit Application (USE 11-000027)

Applicant: Pacific Quest Corp.

Request: To Allow a Group Living Facility Accommodating Up to 30 Residents

Revocation of Use Permit No. 98 (USE 98)

Tax Map Key: 2-1-006:016 & 017

The Windward Planning Commission, at its duly held public hearing on October 6, 2011, voted to approve the above-referenced request to allow the establishment of a group living facility with more than eight (8) residents within the Resort-Hotel (V-.75) zoned district. The properties are located on the north (makai) side of Kalaniana'ole Street, approximately 130 feet southwest from the intersection of Kalaniana'ole Street and Kea'a Street, Waiākea, South Hilo, Hawai'i.

The Commission subsequently voted to revoke Use Permit No. 98 for the subject parcel which was approved on February 27, 1992, to allow the establishment of a community health center within the former AYH Youth Hostel complex.

Approval of Use Permit No. 11-000027 is based on the following:

The applicant is requesting a Use Permit to allow a group living facility (Therapeutic Living Program) that will accommodate a maximum of thirty (30) residents. The applicant will be utilizing the former Bay Clinic Community Health Center structure for the group living facility. The facility will serve young adults between the ages of 18 to 25 across the United States and internationally who are referred by professionals because they are suffering with grief and loss, depression, internet addiction, low-self esteem adoption issues and anxiety. The residents will agree to the treatment and participate voluntarily. The applicant has received approval from the Department of Health-Office of Health Care Assurance to operate as a Therapeutic Living Program for

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up to 8 residents. If the Use Permit is approved, the applicant will be able to increase the amount of residents for the group living facility up to a maximum of thirty (30) residents.

The group living facility will be staffed by professional including 2 Licensed Clinical Psychologists, 3 LCSW therapists, a MSW therapist, a MA Special Ed, an ND, a MD and a Psychiatrist. There will be approximately 60 employees of Pacific Quest including day and night staff. The facility will operate 7 days a week, 24 hours a day.

The applicant has also submitted a concurrent request to revoke Use Permit No. 98, which was approved on February 27, 1992 by the Planning Commission to allow the establishment of a community health center within the former AYH Youth Hostel complex on TMK: 2-1-006: 017.

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 Resort-Hotel (V-.75) 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 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. According to the Zoning Code, the V (resort-hotel) district applies to areas to accommodate the needs and desires of visitors, tourists and transient guests. It applies to specific areas where public roads and public utilities are available or where suitable alternate private facilities are assured. The Zoning Code allows for group living facilities to be a permitted use within the County's Resort-Hotel (V-.75) zoned district.

Chapter 25-1-5 (definitions) in the Zoning Code defines a group living facility as a 24-hour residential facility licensed or certified, and monitored by the State of Hawai'i's Department of Health (DOH) or Department of Human Services (DHS), for persons covered under the Fair Housing Act, as amended, containing between six and eight unrelated adults and/or children, plus unrelated home operator or staff who shall not be included in the resident count. A Use Permit is required to increase the amount of residents within the group living facility beyond eight (8) persons.

The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates a portion of the project site as Resort Area, which areas include a mix of uses such as hotels, condominium-hotels (condominiums developed and/or operated as hotels), and support services. A portion of the project site is also identified as Industrial, but the project site is currently zoned by the County as Resort-Hotel. The request is not contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area and complements the Land Use and Economic elements of the General Plan.

Based on the above, the request is consistent with the general purpose of the zoned district, the intent and purpose of the Zoning Code and the County General Plan.

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. The project site consists of two parcels. Parcel 16 is approximately 2.2 acres in size and parcel 17 is approximately 2.08 acres in size property. Both properties together are roughly rectangular in shape. Parcel 16 is vacant of structures and has a large pond and landscaping. Parcel 17 has an existing approximately 5,000 square-foot, 2-story structure built in 1961, paved parking and landscaping. The structure was originally built as a restaurant, and then it became a youth hostel and lastly, a community health center.

Surrounding properties are zoned V-.75, MG-1a, and ML-20. Reed's Bay is located directly north of the project site along with a parcel of land zoned Open owned by the State of Hawai'i. Kuhio Kalaniana'ole Beach Park is located on the adjacent property to the west. The Orchid Manor Condominiums is located on the adjacent property to the

east. Lastly, the Mazda Dealership and the Suisan Complex are located across Kalaniana'ole Street with the Hilo International Airport further south.

The group living facility will be conducted within the existing building that was previously utilized for as a restaurant, a youth hostel, and lastly, the former Bay Clinic Community Health Center. The proposed use will create less adverse noise and traffic impacts than that of the previous uses that were established on the project site.

Based on the above discussion, it is determined that 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. In addition, the Planning Department received no objections or concerns from the community.

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. Access to the properties is from Kalaniana'ole Street, which is a County owned and maintained roadway with a 24-foot pavement within a 70-foot right-of-way. A traffic impact study of the proposed use was not prepared nor is one required. The nature of the proposed use and its scope will not generate levels of traffic that will unreasonably burden the existing roadways within this area. County water is available to the project site. The project is currently serviced by a privately owned and operated Sewage Pump Station and Force Main. Lastly, electricity and telephone services are available to the project site.

A majority of the properties are within Flood Zones "VE" and "AE", with a southeastern portion of the project site within Flood Zone "X". According to the Flood Insurance Rate Map (FIRM), the properties are within Flood Zones "VE, AE and X". Flood Zone "VE" is a Special Flood Hazard Area where coastal flood with velocity (wave action) affect the site and where base flood elevations have been determined. Flood Zone "AE" is a Special Flood Hazard Area where base flood elevations have been determined. Flood Zone "X" is an area determined to be outside of the 500-year flood plain. The property is also located within tsunami inundation and evacuation zone. The applicant is not proposing any additional improvements on the properties except for two (2) temporary carports and two (2) temporary open-air structures. A condition of approval will be added requiring the applicant to comply with the requirements of Chapter 27 – Flood Plain Management, of the Hawai'i County Code and receive approval of the Department of Public Works should any improvements or land alteration be proposed within the designated flood zone area.

Based on the above discussion, the requested use will not burden public agencies to provide additional services.

The subject request is not contrary to Chapter 205A, Hawai'i Revised Statutes, relating to Coastal Zone Management Area. The project site is located in the Special Management Area (SMA). There have been several SMA permits approved for previous improvements on the subject properties. A SMA permit is not needed for this request as the structure has already received previous SMA approval. A condition of approval will be added to require the applicant to submit for SMA review for any new improvements, including the proposed temporary structures.

There is a designated mauka-makai public access to the shoreline that traverses in between the subject properties. It was established through an amendment to SMA Minor Permit No. 90-2. Additionally, Kuhio Kalaniana'ole Beach Park, which is located on the adjacent property to the west provides beach access to Reed's Bay and public access parking. The proposed request is not anticipated to adversely impact 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.

The applicant submitted a request for a "no-effect" determination from the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) on April 27, 2011. As of the date of this writing, DLNR-SHPD has not responded to the request. The properties are not listed on the State and National Register of Historic Places. There are no known valued cultural, historical or natural resources on the project site 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.

Based on the above considerations, Use Permit No. 11-000027 is approved subject to the following conditions:

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The project shall be developed and operated in substantial compliance with the representations made by the applicant within the Use Permit application (USE 11-000027) received May 4, 2011.
3. The applicant shall comply with the conditions of the Special Management Area (SMA) Major and Minor Permits that were previously approved on the project site.

4. As the project site is located within the Special Management Area (SMA), the applicant shall submit a SMA Use Permit Assessment Application for any new or expanded improvements, including the proposed temporary carports and open-air structures.
5. The applicant shall secure and finalize all appropriate building permits from the Building Division-Department of Public Works, to accommodate the change of use from a community health center to a group living facility and any new structures within one (1) year from the effective date of this permit.
6. Should any improvements or land alteration be proposed within the designated flood zone area, the applicant shall comply with the requirements of Chapter 27 – Flood Plain Management, of the Hawai‘i County Code and approval of the Department of Public Works.
7. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
8. If required, 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.
9. An Emergency Response Plan shall be submitted to the Hawai‘i County Civil Defense Agency for review and approval prior to the issuance of a Certificate of Occupancy. The plan shall provide an evacuation plan and include what kind of transportation assets are available for immediate off-site evacuation. Additionally, the plan should provide alternate accommodations should the structure be rendered uninhabitable.
10. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
11. 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.

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- 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.

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

Sincerely,



Zendo Kern, Chairman
Windward Planning Commission

cc: Pacific Quest Corp.
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Mr. Gilbert Bailado