

County of Hawai'i

WINDWARD PLANNING COMMISSION

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NOV 19 2013

Mr. Gilbert Aguinaldo
Aguinaldo 4, LLC
P.O. Box 1925
Pāhoa, HI 96778

Dear Mr. Aguinaldo:

Use Permit Application (USE 13-000043)

Applicant: Aguinaldo 4, LLC

Request: To Allow the Construction of a 13,520 Square Foot Medical Facility on
1.545 Acres of Land Situated Within the County's Single Family Residential
(RS-10) Zoning District

Tax Map Key: 1-5-003:037

The Windward Planning Commission, at its duly held public hearing on November 7, 2013, voted to approve the above-referenced request to allow the construction of a 13,520 square foot medical facility and related improvements on approximately 1.545 acres of land situated within the County's Single-Family Residential (RS-10) zoning district. The subject property is located on the southeast corner of the intersection of Pāhoa-Kalapana Road (Highway 130) and Pāhoa-Kapoho Road (Highway 132), across from Pāhoa High School at Kaniahiku Homesteads, Puna, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a Use Permit to allow the construction of an approximately 13,520 square foot medical facility that will provide geriatric services, an X-ray laboratory, pediatrics, general practice medicine, dentistry, optometry and physical therapy through the services of rotating specialists on 1.545 acres of land situated within the County's Single-Family Residential (RS-10) zoning district.

There will be one (1) 13,520 square foot building to be constructed on the subject property to accommodate the medical facility. According to the applicant, there will be

seven (7) offices, which will be 1,820 square feet each, with rotating specialists sharing space with a Physical Therapy office. The X-ray office will have a waiting room, patient check-in area, a doctor's office, dressing rooms, two (2) exam rooms, the X-ray room and a unisex restroom. The other six (6) offices will have a waiting room, patient check-in area, a doctor's office, four (4) exam rooms, a break room, a unisex restroom and a storage room. The applicant is proposing a total of forty six (46) paved parking spaces on site.

The proposed use would provide residents of Puna with an alternative to traveling to Hilo for similar medical services. With Puna being the fastest growing district on this island, there is a critical need for enhanced and convenient medical services for the residents of this district.

Previously, the applicant submitted a request for a change of zone from Single-Family Residential (RS-10) to Village Commercial (CV-20) for a proposed development of a dual purpose medical facility with a kidney dialysis treatment center and geriatric clinic on the subject property but withdrew the request and submitted this Use Permit request.

Rule 7 (Use Permits), Section 7-6, of the Planning Commission's Rules of Practice and Procedure states that the Planning 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 is consistent with the general purpose of the zoning district, the intent and purpose of the Zoning Code, and the County 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 a lot that may be occupied, and the density of population and land for trade, industry, residence or other purposes. The Zoning Code requires the issuance of a Use Permit for hospitals, convalescent, nursing and rest homes, and other similar uses devoted to the care or

treatment of the aged, the sick, or the infirm in the Single-Family Residential (RS) zoning district. Thus, a Use Permit is required to allow the establishment of the proposed medical clinic. Use Permits provide an opportunity to assess proposed uses in zoning districts that require special attention to insure that the uses will not unduly burden public agencies to provide public services or cause substantial adverse impacts upon the surrounding community.

The proposed use is consistent with the General Plan Land Use Pattern Allocation Guide (LUPAG) Map designations for the property, which is Medium Density Urban. The Medium Density Urban designation allows single-family and multiple-family residential and related functions (overall residential density may be up to 35 units per acre), and village and neighborhood commercial uses. The proposed medical clinic will increase medical services to the Hilo area, which will directly support a goal of the General Plan to encourage the establishment or expansion of community health centers and rural health clinics.

The proposed request is consistent with the Puna Community Development Plan. The subject property is located within the preliminary boundaries of the Pāhoa Regional Town Center. The Puna Community Development Plan (PCDP) states that commercial development that serves regional uses should be limited to the “regional town center” boundaries. Commercial development that serves community village or neighborhood village uses may be located adjacent to a regional town center. As the proposed request will be providing regional uses and is located within the preliminary boundaries of the Pāhoa Regional Town Center, we find the request consistent with the Puna Community Development Plan.

The proposed use will not be materially detrimental to the public welfare nor cause substantial adverse impact to the community's character or to surrounding properties. The property is located on the southeast corner at the intersection of Highway 130 and Highway 132. The property is currently vacant of uses and structures. The surrounding lands are zoned A-1a and A-5a on the east side of Highway 130 and RS-10, A-1a, CV-10 and CV-20 on the west side of Highway 130. The east side of the highway consists mainly of residential dwellings, agricultural uses and vacant land. There is a church on the across Highway 132 near the subject property. Tangerine Acres Subdivision is just east of the subject property. The west side of the highway is the part of Pāhoa Village and includes the Pāhoa High School Complex, Pāhoa Sacred Heart Church and preschool, and several commercially zoned properties.

The construction of the medical clinic, driveway and parking lot improvements will create temporary construction impacts such as an increase in noise, dust and truck traffic. These impacts will be temporary in nature and minor in scope and therefore are not anticipated to have a substantial adverse impact on the surrounding properties,

particularly since some surrounding properties are already developed with commercial and community uses that serves a regional population.

Landscaping should be installed to visually screen the clinic from surrounding properties and adjacent roadways to reduce the noise and visual impacts associated with the development. With implementation of a condition of approval related to landscaping, the proposed use is not likely to have a substantial adverse impact to the community's character or to surrounding properties and will not be detrimental to the public welfare.

The proposed use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, schools, police and fire protection and other related infrastructure. Access to the property is from Pāhoa-Kapoho Road (Highway 132), which is a County-owned and maintained roadway with a pavement width of approximately 22 feet within a 60-foot wide right-of-way. There is a 6-foot paved shoulder along the property boundary as well. Parking for the project will be provided on-site. A Traffic Assessment (TA) was completed for the project, which concluded that the project should have little to no impact of traffic flow on Highway 132. Comments have been received from the State Department of Transportation (DOT) and from the County Department of Public Works (DPW). The DOT requested that Traffic Assessment should be revised and submitted for review and acceptance prior to the issuance of building permits for the clinic. Additionally, DOT requested that should the clinic change its hours of operation or provide workshops or other activities that generate significantly greater traffic on Route 130, a revised TA that describes the impacts and recommends any needed mitigation should be submitted. Conditions of approval will be added reflecting DOT's requests.

The facility is located near Pāhoa Village. To improve pedestrian access to the proposed medical facility, the Planning Department is recommending that the applicant provide improvements to the property's Pāhoa-Kapoho Road (Highway 132) frontage consisting of, but not limited to, pavement widening with concrete curb, gutter, and sidewalk, drainage improvements, and any required utility relocation, meeting with the American with Disabilities Act and the approval of the Department of Public Works. Additionally, the Planning Department is restricting access from the Pāhoa-Kalapana Road (Highway 130) as represented within the application.

County water is available to the property from an existing 8-inch waterline within the Pāhoa-Kapoho Road fronting the subject parcel, or an existing 12-inch waterline within the Pāhoa-Kalapana Road via a 5/8-inch meter limited to 400 gallons per day. Should additional water be required for the proposed use, the applicant will need to install an additional or larger water meter.

The applicant will install an approved sewage disposal system designed by an engineer, conforming to the State of Hawai'i, Department of Health requirements. All other essential utilities and services are available to the site. Thus, the proposed use will not unreasonably burden public agencies to provide infrastructure.

The project has no severe geological or topographical problem which cannot be properly rectified or which would render the land unusable. The property is situated in Flood Zone "X", which is an area determined by FEMA to be outside of the 500-year flood plain. There are no municipal waste collection services in the County. All solid waste generated by the development will require private disposal at the Hilo landfill. Electric and telephone services are available to the property. Police, fire and medical services are available nearby in Pāhoa.

Based on the above, the establishment and operation of a medical clinic and accessory uses on 1.545 acres of land situated within the Single-Family Residential (RS-10) zoning district is compatible with the existing land uses and the physical and social environment of the area, and promotes the effectiveness and objectives of the Zoning Code and General Plan. Approval of the request is 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 applicant shall submit estimated maximum daily water usage calculations, prepared by a professional engineer licensed in the State of Hawai'i, for review and approval within one hundred and eighty (180) days from the effective date of this permit. The water usage calculations should include the estimated peak flow in gallons per minute and the total estimated maximum daily water usage in gallons per day, including all irrigation use. Upon review and approval of the calculations by DWS, the applicant shall submit a water commitment deposit in accordance with the "Water Commitment Guidelines Policy," facilities charges, and other improvements required by DWS which may include, but not be limited to, upgrading the existing water meter or installing an additional water meter. The applicant shall also provide any improvements required by the Fire Department to meet the fire protection needs of the medical clinic. This condition shall be implemented prior to the issuance of a Certificate of Occupancy for the medical clinic.
3. The applicant shall install a reduced pressure type backflow prevention assembly by a licensed contractor, within five (5) feet of the meter on private property. If a larger or additional meter is required, a backflow prevention assembly will also be required for the larger or additional meter. The installation of the backflow

prevention assembly(s) must be inspected and approved by the Department of Water Supply before the commencement of water service.

4. Construction of the medical clinic shall be completed within five (5) years from the effective date of this permit. Prior to commencing construction, the applicant, successor(s) or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all proposed structure(s), paved driveway access and paved parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) bufferyard requirements for the Village Commercial (CV) zone adjoining a Single-Family Residential (RS) zone.
5. Site layout and building design of the proposed development shall adhere to any design guidelines established for Pāhoa Village that are in effect when plans are submitted for Final Plan Approval.
6. Access to the subject property shall be limited to Pāhoa-Kapoho Road (Highway 132) and conform to the requirements of Chapter 22, County Streets, of the Hawai'i County Code. Access to the subject property shall be prohibited from the Pāhoa-Kalapana Road (Highway 130). Streetlights and traffic control devices at the project's driveway along Highway 132, as may be required by the Traffic Division, Department of Public Works, shall be installed by the applicant at no cost to the County, prior to the issuance of certificate of occupancy for any portion of the project.
7. The applicant shall provide improvements to the subject property's entire Pāhoa-Kapoho Road (Highway 132) frontage consisting of, but not limited to, pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any required utility relocation meeting with the approval of the Department of Public Works (DPW) and constructed to DPW R-32 Standard Detail, prior to the receipt of Certificate of Occupancy for any portion of the project.
8. The applicant shall submit a revised Traffic Assessment to the Department of Transportation (DOT) prior to the issuance of building permits for the clinic. If DOT requires improvements based on findings by the Traffic Assessment approval, the applicant shall plan, design, and construct the improvements prior to County approval of a certificate of occupancy for the clinic.

9. Should the clinic change its hours of operation from that represented within its Use Permit application or provide workshops or other activities that generate significantly greater traffic than anticipated by the traffic assessment dated March 2013, a revised Traffic Assessment shall be immediately prepared when required by the Planning Department and submitted to the DOT that describes the impacts and recommends any necessary mitigation improvements.
10. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
11. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
12. Prior to receipt of a Certificate of Occupancy, an individual wastewater system shall be installed meeting with the requirements of the Department of Health.
13. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
14. 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 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 that sufficient mitigative measures have been taken.
15. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
16. 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. 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.

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- 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,



Wallace A. Ishibashi, Chairman
Windward Planning Commission

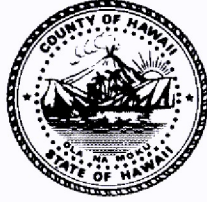
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cc: All Aina Services
Department of Public Works
Department of Water Supply
County Real Property Tax Division
DOT-Highways, Honolulu
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October 26, 2023

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

Dear Mr. Fuke:

Use Permit (USE 13-000043)

Applicant: Aguinaldo 4, LLC

Request: To Develop a 13,520 Square Foot Medical Facility and Related Improvements

Subject: Revocation of Use Permit

Tax Map Key: 1-5-003:037; Kaniahiku Homesteads, Puna, Hawai'i

This is in response to your September 3, 2021, letter requesting that the subject Use Permit be revoked upon successful rezoning of the property to Village Commercial-20,000 square feet, which would render the subject Use Permit moot. Please accept our apologies for this late response. For your information, the County Council approved Change of Zone Ordinance No. 22 27 with an effective date of March 23, 2022.

Based on the preceding and in accordance with Planning Commission Rule 7-11, Use Permit No. 13-00043 is hereby revoked.

If you have any questions, please feel free to contact Christian Kay at (808) 961-8136.

Sincerely,

Jeffrey W. Darrow

October 26, 2023, 01:10 PM

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Planning Director

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cc via email: Alan Gunn, GIS Section