

THOMAS LEE DIRECT TESTIMONY

WAIVER HEARING

Department of Veterans Affairs Multi-Specialty Outpatient Clinic (KAL 21-006)

Q Please state your name, place of employment, and position.

A Thomas Lee, Vice President, Hunt Communities Hawaii, LLC (“Hunt”).

Q Please briefly summarize applicant VA Aloha, LLC’s (“VA Aloha”) requested waivers from the strict application of the Kalaeloa Community Development District (“KCDD”) Rules for the proposed Department of Veterans Affairs Multi-Specialty Outpatient Clinic.

A Pursuant to VA Aloha’s Petition for Waivers of Certain Provisions of the Kalaeloa Community Development District Rules Pursuant to Hawaii Administrative Rules § 15-219-98 filed on June 1, 2021, Applicant VA Aloha is requesting waivers from the strict application of five provisions of the KCDD Rules to construct the clinic:

1. **HAR § 15-215-41(a) (Building Placement) / Figure 1.3 (Development Standards Summary) and Figure 1.8 (Building Placement and Encroachment):** a waiver of the strict application of this rule (and the related specifications in the figures) will permit the VA Clinic to have less than the required 50 percent minimum building frontage occupancy at the build to line to accommodate the VA’s specifications for the VA Clinic, including the VA’s original requirement for a 25-foot security stand-off distance.
2. **HAR § 15-215-62 (Large Lot Development):** A waiver of the strict application of subsection (d)(2) of this rule will permit the clinic to have its principal entrance as proposed by the VA, and not “off of a new or existing thoroughfare or passageway” as specified by the KCDD Rules, and a waiver of the strict application of subsection (d)(4) of this rule will permit the VA Clinic to have a continuous building form along Franklin D. Roosevelt Avenue without a mid-block pedestrian passageway and courtyard every three hundred feet in order to accommodate the VA’s requirement that the clinic space must be “adjoining,” as well as to accommodate the shape, dimensions and conceptual floor plans for the VA Clinic.
3. **HAR § 15-215-47(i)(6) (Parking and Loading - High Albedo Concrete):** a waiver of the strict application of this rule will permit the use of asphalt in the surface parking lot in lieu of the specified high albedo concrete, which will assist in implementing the VA’s requirement of providing over two times the number of parking spaces (528 parking spaces) than required by the KCDD Rules.

4. **HAR § 15-215-47(j) (Parking and Loading - Landscaping)**: a waiver of the strict application of this rule will permit additional flexibility in the size and placement of shade trees (in lieu of the specified large shade trees every forty-five feet along the entire length of every other row) in the parking lot. This waiver will assist in accommodating the VA's requirement for the extensive parking at the clinic.
5. **HAR § 15-215-43(h)(2) (Architectural Standards - Windows)**: a waiver of the strict application of this rule will permit a visible light transmission level of windows in the clinic to be less than the required seventy percent. This waiver is necessary to meet the solar heat gain coefficient requirements of IECC 2015 table C402.4 for Climate Zone 1 / Hawaii.

Q Why is VA Aloha requesting waivers to the strict application of these rules?

A While other witnesses in this proceeding will provide additional information and details on each waiver request, the primary reason for VA Aloha's request to waive the strict application of the rules is to ensure that the VA Clinic will best meet the specific and unique needs of the VA and veterans.

The development of the VA Clinic is a public-private partnership; accordingly, the proposed design of the clinic is the result of the VA's requirements, specifications and preferences for a major multi-specialty clinic that will meet the specific needs of the VA and veterans. The VA's Solicitation for Offers issued in April, 2017 (the "SFO") and the accompanying conceptual plans described the VA's specifications for the project.

The SFO included numerous mandatory design requirements for the facility, including minimum requirements for the shape and dimensions of space to accommodate the contiguous interior functional requirements of the clinic, and the minimum number of parking stalls. The SFO (as amended) and the VA's conceptual plans also included numerous design preferences in areas including setbacks, physical security, and clinic access. Among the numerous design requirements and preferences, the SFO included the following provisions:

- "Space shall be located in a quality new building, constructed of sound and substantial construction, and shall be in compliance with all of the Government's minimum requirements set forth in this Solicitation for Offers. . . . Space must be adjoining[.]" SFO at § 1.1, Amount and Type of Space (emphasis added).
- The SFO site criteria mandated that the site "be able to accommodate the proposed building and provide the required amount of appropriately located parking". SFO at § 1.12, Site Criteria.

- “The space offered shall be of shape and dimensions that will accommodate the space program and interior functional requirements of VA Multi-Specialty Outpatient Clinic[.]” SFO at § 1.3.2 (emphases added).
- “The conceptual floor plan (PART VIII) provided in this solicitation shall be used as the basis for the planning and functional layout of the facility.” SFO at § 7.1.1, Space Planning and Functional Layout; Conceptual Plans by Leo A. Daly (emphasis added).
- The SFO required the offeror to “[d]evelop sufficient new parking so that the total number of facility spaces will be the greater of 528 spaces, or as required by local codes.” SFO at § 5.2.9, Parking Facilities (emphasis added).
- The SFO noted that offerors would be evaluated, among numerous other technical factors, on the “quality of site development,” including the offeror’s “site plan composition and elements, ingress and egress, and physical security.” SFO at § 2.2.2.A.(2).
- Physical security standards, including a 25-foot standoff distance, is referenced in Section 4.2.4 of the SFO.¹
- The SFO originally provided that “Access roads shall be configured to prevent vehicles from attaining speeds in excess of 25 mph. Avoid any straight-line vehicular approaches to the facility.” SFO at § 4.2.4.B.(2).²
- The SFO originally required a public entrance design that would limit public access to “a single entrance”; provide “access from drop-off to lobby to prevent a straight line of travel”; a security screening vestibule; and numerous security safeguards and measures. See SFO at § 4.2.4.C.³
- “VA will evaluate the Offeror’s development of the site to accommodate VA’s conceptual building footprint including the required setbacks; [and] delivery of parking spaces in excess of the required minimum number of spaces, the ingresses and egresses to and from the main (public), emergency, and staff entrances[.]” SFO at § 2.2.2, Technical Evaluation.

¹ Although the VA subsequently amended the security provisions of Section 4.2.4., Hunt’s proposed design maintains the VA’s original security standards to better protect the health and safety of building occupants.

² See Note 1.

³ See Note 1.

- The VA adopted various model codes and standards for the construction of new structures, including the International Energy Conservation Code, 2015 Edition (“IECC 2015”). SFO at § 4.2.1.⁴

Although the VA amended the SFO during the solicitation process, Hunt deliberately chose to adhere as closely as possible to the VA’s original requirements, specifications, preferences and conceptual plans, especially in the areas of site security access and other areas where Hunt believed the more restrictive standards would best serve the VA and veterans.

Accordingly, VA Aloha is requesting the waivers to the strict application of the five rules in order to permit the VA Clinic to be constructed according to the VA’s requirements, guidelines and preferences as planned for this project. As discussed by other witnesses, the proposed design for the VA Clinic -- with the exception of these limited waiver requests -- complies with all other standards and guidelines of the KCDD Rules.

Q Please briefly summarize the effect on the VA Clinic if these rules were to be strictly enforced.

A Given the VA’s acceptance of Hunt’s proposed design for the clinic (as confirmed through congressional approval of the lease award), material alterations or conditions on the design of the clinic as proposed in the application and petition for waivers could alter the VA’s preferred design for the VA Clinic as selected through the comprehensive SFO process.

A strict enforcement of the KCDD rules relating to the clinic building placement, encroachment, and large lot development, for example, would result in a building structure that would not be in conformance with the SFO’s original provisions and the VA’s conceptual plans. Ultimately, this would result in a structure that would not fully meet the specific requirements, needs and preferences for the VA and veterans.

In addition, given the VA’s requirement for 528 parking stalls at the clinic (or over two times the number of parking spaces required by the KCDD Rules), the strict application of the rules relating to the clinic parking lot paving and landscaping would create practical and logistical construction and landscaping issues for this development.

The use of high albedo concrete for such a large area, for example, would create additional risk and complexity to the project. The volume of concrete required for a surface parking lot of this size requires additional design, preparation and construction. The foregoing issues are particularly material for this project given the strict

⁴ On May 20, 2020, the City and County of Honolulu also adopted the IECC 2015 with amendments. See https://energy.hawaii.gov/wp-content/uploads/2020/07/HonoluluCounty_EnergyCode.pdf.

development and delivery timetable imposed by the VA. In addition, while the ample parking required by the VA will provide a significant public benefit for patients, the cost of the concrete (which is nearly three times the cost of asphalt) for such a large area imposes an undue burden that is solely the result of the VA requirement.

Similarly, the number of parking spaces requires that the parking lot and landscaping be planned as efficiently as possible. A strict application of the parking landscaping rule, which requires large trees be planted every forty five feet in every other median, increases the risk of long term root pavement damage, which is of particular concern in a medical facility, where patients (many of whom may have mobility issues) need to park and access the clinic as easily as possible.

Finally, the strict application of the rule requiring a 70 percent or greater visible light transmission level of windows on the ground floor would likely result in windows that may meet the VLT requirement, but do not conform to the VA (and the City and County of Honolulu's) IECC 2015 energy standards. The VA Clinic's current design targets insulated glazing units that comply with the IECC 2015 energy standards, and with low emissivity coating at approximately 62 percent VLT.

Q Do you believe that granting these waivers from the strict application of the rules will endanger the health, safety, or welfare of the Kalaeloa Community Development District?

A No. VA Aloha believes that granting these waivers will not endanger the health, safety or welfare of the district, and in fact, granting these waivers will instead ensure that the VA Clinic will best meet the needs of the VA and its patients in Kalaeloa and the greater west O'ahu area.

Q Do you believe that granting these waivers to the strict application of the rules is in the best interest of the Kalaeloa Community Development District?

A Yes. Granting these waivers will ensure that this important, long-planned facility will be built with the specifications, preferences and design features as originally envisioned by the VA to best serve veterans, which in turn, will be in the best interests of the Kalaeloa Community Development District.

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