

TOM SCHNELL 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 Tom Schnell, PBR HAWAII & Associates, Inc., Principal.

Q How long have you been in this position?

A I have been a Principal of PBR HAWAII for 8 years. Before becoming a principal, I was an Associate for 12 years, and a Planner for 2 years. In total, I have over 21 years of experience as a professional planner with PBR HAWAII.

Q Please describe your educational background and experience.

A Please see my resume, which is marked as an exhibit in this proceeding. Among other professional affiliations, I am accredited by the American Institute of Certified Planners, and I am a member of the American Planning Association, Hawai'i Chapter, Lambda Alpha International, Aloha Chapter, and the Urban Land Institute.

Q Please describe your firm's experience.

A PBR HAWAII & Associates, Inc., based in Hawai'i for over 50 years, is active in all aspects of land planning, environmental studies, landscape architecture, and graphic design. PBR engages in a variety of projects ranging from specific site designs to regional and community plans, urban design studies, environmental assessments and impact statements, and large-scale resource inventory and land management projects. Our multi-disciplined expertise and overall experience allows us to provide clients and end users with successful plans that are functional, sustainable, cost effective, and at the same time, culturally and aesthetically relevant.

Q What has your firm been retained to do for this Project?

A Hunt Communities Hawaii, LLC ("Hunt") retained PBR to prepare and process a development permit application for the Department of Veterans Affairs Multi-Specialty Outpatient Clinic in the Kalaeloa Community Development District (the "VA Clinic"). Hunt Communities Hawaii, LLC is the corporate parent of VA Aloha, LLC ("VA Aloha"), which is the applicant and developer of the VA Clinic.

Q Please summarize the waivers from the strict application of the Kalaeloa Community Development District (“KCDD”) Rules requested for the VA Clinic.

A VA Aloha is requesting waivers from the strict application of five provisions of the KCDD Rules to accommodate certain design requirements and preferences specified by the U.S. Department of Veterans Affairs (“VA”) for the development of the new, state-of-the-art, VA Clinic. These rules are:

- **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;
- **HAR § 15-215-62 (Large Lot Development):** A waiver of the strict application 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 will also 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;
- **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;
- **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; and
- **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 Do the KCDD rules contemplate waivers of the strict application of these rules?

A Yes. The KCDD Rules incorporate by reference the Authority’s rules of practice and procedure. See HAR § 15-215-6(b)(1). In turn, the Authority’s rules of practice and procedure permit a waiver of “any of the provisions of the administrative rules of HCDA’s community development districts” upon a finding that:

- Granting the waiver will not endanger the health, safety, or welfare of the subject community development district; and
- There is either an alternate means for which the spirit and intent of the provision for which petitioner seeks a waiver can be accomplished or the waiver of the strict application of the provision is in the best interest of the subject community development district. See HAR § 15-219-98(e).

Q What is the procedure for the Authority to consider requests for waivers of the strict application of the KCDD Rules?

A HAR § 15-215-98 requires a written petition requesting waivers from the strict application of any of the provisions of the KCDD Rules, which describes:

- The contact information for the petitioner and its counsel;
- The specific provisions of the administrative rules for which the petitioner seeks waivers;
- The effect of the strict application of the provisions for which the petitioner seeks waivers;
- The reasons why the petitioner seeks to avoid the strict application of the provisions for which the petitioner seeks the waivers;
- An alternate plan or other means by which the spirit and intent of the provisions for which the petitioner seeks the waivers can be accomplished other than the strict application of the rules;
- The extent to which the waivers are in the best interest of the community development district; and
- The extent to which the waivers may endanger the health, safety, or welfare of the community development district.

On June 1, 2021, VA Aloha submitted a Petition for Waivers of Certain Provisions of the Kalaeloa Community Development District Rules Pursuant to Hawaii Administrative Rules § 15-219-98 (the “Petition”), which provides the foregoing information for the

KCDD Rules for which VA Aloha seeks the waivers. The Petition is also marked as an exhibit in this proceeding.

Q What is the relevance of the VA’s solicitation for offers and the VA’s selection process to VA Aloha’s requests for waivers of the strict application of the KCDD Rules?

A The proposed design of the VA Clinic is the product of the VA’s solicitation for offers (“SFO”) process, in which the VA set forth detailed requirements and conceptual design standards for the clinic, and evaluated how closely the submitted proposals conformed to those requirements and preferences before deciding on the contract award. The process ensured that the clinic’s ultimate design would best meet the very specific requirements, preferences and needs of the VA and veterans. The SFO and the VA’s conceptual design plans are attached in full as exhibits to the Petition.

The SFO required that site, improvements, building, interior construction, and equipment comply with general design criteria as enumerated in Section 4, including codes and standards, criteria unique to the VA, fire, and life safety requirements, environmental requirements, accessibility standards, Occupational Safety and Health Administration (OSHA) requirements, and energy efficiency and sustainable design.

As noted in the SFO and the Petition, the VA subsequently amended some of its requirements, including its physical security standards; however, Hunt intentionally chose to adhere to the VA’s original, stricter standards, especially in the areas of building security and occupant health and safety.

Given the foregoing, the waiver of the five rules subject to the Petition will ensure that the clinic will accommodate the VA’s specific requirements and design preferences for this facility, which, in turn, will best serve the best interests of the VA and veterans.

Q Please summarize the bases for the waiver of the strict application of the KCDD Rule pertaining to the VA Clinic’s building placement and encroachment.

A HAR § 15-215-41(a) provides in pertinent part that: “[f]acades shall be built parallel to the build to line with a minimum frontage occupancy as provided in Figure 1.8 (building placement and encroachments)[.]” In turn, Figure 1.8 of the KCDD Rules illustrates the requirement (set forth in Figure 1.3 for the T3 (General Urban) transect) of a 50 percent minimum frontage occupancy at the build to line, and a front yard setback of 5-15 feet.

Given the VA’s original security standards, including a 25-foot standoff distance, its conceptual design preferences, and the size and orientation of the 9.5 acre lot, the proposed design has a greater setback and does not strictly conform to the 50 percent minimum frontage occupancy at the build to line. Please see the Conceptual Site Plan (Application at Exhibit 3, AS101).

The proposed design is consistent with the spirit and intent of the rules in that the setback and landscaping will not materially or negatively alter the general character of the general urban transect, will not impair or impede pedestrian activation, and will be compatible with the expected reasonable use of adjacent properties.

Strictly complying with this rule would result in a building that would not be consistent with the VA's original design standards, and would require an extensive redesign of the layout, orientation, space plan and footprint of the clinic.

Q Please summarize the bases for the waiver of the strict application of the KCDD Rule pertaining to large lot developments.

A HAR § 15-215-62 sets forth standards for developing large lots, and is intended to divide large lots into smaller pedestrian-oriented blocks to encourage pedestrian walkability, orientation and activation, and to encourage building facades that reflect a pedestrian sense of scale.

The proposed design of the VA Clinic does not strictly conform to HAR § 15-215-62(d)(2), which requires that new buildings have their principal entrance off of a new or existing thoroughfare or passageway, and HAR § 15-215-62(d)(4), which provides that buildings shall incorporate mid-block pedestrian passageways and courtyards every 300 feet.

A strict application of the principal entrance rule would not be compatible with the VA's preference under the SFO's original provisions and the VA's conceptual plans to ensure that the single, centrally-located main entry for the clinic will be in a secure location and provide appropriate patient access and flow into the facility. Setting back the principal entrance as reflected in the building design (vs. having the principal entrance immediately off of an existing thoroughfare) is consistent with the VA's conceptual design.

Similarly, a strict application of the mid-block pedestrian passageway rule would alter the VA's preferred dimensions and layout for the clinic, which in turn would alter the interior functional plans of the facility, since a passageway would physically separate areas within the clinic, which is designed to provide ease of access for patients to multiple medical specialties and services under one roof.

The proposed design of the clinic will meet the spirit and intent of the large lot development rule because the entrance of the clinic, which is set back from the street as appropriate for a secure medical facility, will still facilitate patient access and convenience through a large patient drop off and access area.

In addition, since the building will only be one story, and the design includes pedestrian passageways throughout the site, extensive landscaping around the facility, and open space and landscaping on both the 'Ewa and the Diamond Head side of Franklin D. Roosevelt Avenue and along the Kamokila Boulevard extension, these design elements

will mitigate the effect of the building façade and give the building an appropriate sense of scale. Please see the Conceptual Site Plan and Conceptual Landscape Plan (Application at Exhibit 3, AS101 and LS101); and the renderings of the clinic along the Kamokila Boulevard extension and Franklin D. Roosevelt Avenue marked as exhibits in this proceeding.

Q Please summarize the bases for the waiver of the strict application of the KCDD Rule pertaining to parking and loading.

A The SFO requires the provision of the greater of 528 parking spaces for the clinic or the number of spaces required by local codes. Pursuant to HAR § 15-215-47(e)(1), 253 parking spaces would be required for the clinic. Accordingly, VA Aloha is required by the VA to provide 528 parking spaces for the clinic (or over double the number of parking spaces required by the KCDD Rules). In the analogous situation of federal regulations, the KCDD Rules recognize that federal mandates should control. See HAR § 15-215-6(a)(4).

While the construction of this required, ample parking for the clinic provides an important public benefit in the form of convenient, on-site parking for veterans, their caregivers and VA employees (thus reducing the need for on-street parking and reducing attendant congestion), the practical result is that the clinic parking must be designed and implemented as efficiently as possible.

A strict application of HAR § 15-215-47(i)(6), which requires the use of high albedo concrete instead of asphalt in parking lots would require significantly more concrete for the VA Clinic parking lot than ordinarily required (and presumably contemplated) under the KCDD Rules. Working with this significantly greater volume of concrete for the surface parking lot increases the risk and complexity of the project, which is under a strict development and construction timetable imposed by the VA.

In addition, while economic or financial factors alone are not dispositive, significant cost may be considered by HCDA in granting a waiver, particularly where the cost arises from a third-party requirement, and the requirement to provide over double the amount of parking for a particular project could not have been reasonably foreseen or contemplated by HCDA when it promulgated the rule requiring high albedo concrete (which is approximately 2.7 times more expensive than asphalt) for the number of parking stalls required under the rules. Accordingly, while the requirement for the use of high albedo concrete in surface parking lots likely bears a rational relationship to HCDA's formula for the number of parking stalls that would typically be required in a project, that rationale does not extend to a situation where there is a mandatory condition from a federal agency to provide over double the number of parking spaces for a medical facility.

Similarly, the required number of parking spaces for the clinic requires a very efficient design and layout for the parking area. Accordingly, while a strict application of HAR §

15-215-47(j) would require that large shade trees be planted every forty-five feet in every other median of the parking lot, the space available for landscaping within the parking lot is directly affected by the number of stalls required by the VA. While VA Aloha's architect will discuss this in more detail, placing large shade trees at locations in strict compliance with the rule would likely result in long-term pavement damage throughout the lot, affecting the safety of patients to the clinic.

The proposed design of the clinic parking lot is intended to address the spirit and intent of the foregoing rules by providing flexible, yet effective and attractive landscaping throughout the parcel (including large shade trees where practically possible, as well as numerous small to medium trees), which in turn is also designed to mitigate the heat island effects of using asphalt in the parking lot.

Q Please summarize the bases for the waiver of the strict application of the KCDD Rule pertaining to architectural standards for windows.

A The SFO (and the City) requires the VA Clinic to comply with the model code energy standard, IECC 2015. While VA Aloha's architect will discuss this issue in more detail, my understanding is that, to date, VA Aloha, despite diligent research, has not been able to locate an insulated glazing unit that meets both the 70 percent visible light transmission ("VLT") requirement of HAR § 15-215-43(h)(2) for ground floor windows, and the Solar Heat Coefficient requirements of IECC 2015 for Hawaii.

While VA Aloha's architect will discuss this in more detail, VA Aloha intends to fulfill the spirit and intent of the rule through the current window design, which calls for insulated glazing units for the clinic with low emissivity coating at approximately 62 percent VLT. As a single-floor medical facility (as opposed to a commercial project where increased VLT encourages pedestrian interaction and activation with commercial spaces), VA Aloha believes that these glazing units will properly balance the requirement to comply with IECC 2015, while also taking into account patient privacy, comfort and safety.

Q In your professional opinion, are these requested waivers of the strict application of the KCDD Rules in the best interests of the Kalaeloa Community Development District?

A Yes, based on the foregoing, and all of the information in the record of this proceeding, in my professional opinion, VA Aloha's requested waivers of the strict application of the KCDD Rules (both individually and collectively) are in the best interests of the Kalaeloa Community Development District.

As discussed, the proposed design for the VA Clinic is the product of very specific and detailed requirements, specifications, and design preferences articulated by the VA in the SFO. Hunt intentionally chose to design the clinic in conformance with the SFO, including the VA's original security requirements, in order to ensure that the clinic would meet the high standards and expectations for this major project for the VA and the Kalaeloa community.

Accordingly, waiving the strict application of the KCDD Rules discussed in the Petition and permitting the clinic to be built pursuant to the proposed design will balance the spirit and intent of the rules with the VA's (and the community's) very strong interests in obtaining a state-of-the-art facility that will best serve veterans in Kalaeloa and throughout the greater west O'ahu area. In turn, having such an important and much-needed facility within the Kalaeloa Community Development District will significantly enhance the vision of Kalaeloa as a center of excellence in west O'ahu for many years to come.

Q In your professional opinion, will these requested waivers of the strict application of the KCDD Rules endanger the health, safety, or welfare of the Kalaeloa Community Development District?

A No. Based on the foregoing, and all of the information in the record of this proceeding, in my professional opinion, VA Aloha's requested waivers of the strict application of the KCDD Rules (both individually and collectively) will not endanger -- and in fact will significantly enhance -- the health, safety and welfare of the Kalaeloa Community Development District. As noted above, these waivers to the strict application of the rules are being requested to facilitate the design and construction of the state-of-the-art facility envisioned by the VA (and strongly supported by Hawaii's congressional delegation and the community) for many years, and this medical facility as proposed will actively promote the health, safety and welfare of veterans within Kalaeloa and throughout west O'ahu.

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