County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

September 9, 2010

Wanda Meurs, M.D.
200-A Kalona Street
Hilo, HI 96720

Dear Dr. Meurs:

Use Permit No. 135
Applicant: Wanda Meurs, M.D.
Request: Amendment to Condition No. 4 (Complete Construction) and Delete Condition No. 5 (Curb, Gutter, Sidewalk Improvements) To Allow 3-Year Time Extension to USE 135 Which Allowed a Medical Office Building
Tax Map Key: 2-3-032:003

The Windward Planning Commission at its duly held public hearing on August 12, 2010, voted to approve the above-referenced request for an amendment to Use Permit No. 135, which allowed the establishment of a medical office and related improvements on approximately 12,148 square feet of land situated within the Single-Family Residential – 10,000 square feet (RS-10) zoned district. The amendment requests seek an extension of three (3) years to Condition No. 4 (complete construction) and deletion of Condition No. 5 (curb, gutter & sidewalk improvements). The project site is situated at 1205 Waiānuenue Avenue, across from the Yukio Okutsu State Veterans Home, Pi'ihonua, South Hilo, Hawai'i.

Approval of this request is based on the following:

The applicant is requesting a 3-year time extension to Condition No. 4 (complete construction) and the deletion of Condition No. 5, which requires the construction of curb, gutter & sidewalk improvements for the proposed project.

On April 26, 1995, the Planning Commission approved Use Permit No. 135 to allow the establishment of a medical office and related improvements on approximately 12,148 square feet of land. The applicant was originally proposing to establish a pediatric

medical office within an existing 2-story/3-bedroom single-family dwelling that was located on-site. It was later determined that it would be too expensive to renovate the dwelling so plans were drawn up for a new structure and the existing structure was relocated off-site. After this time, the applicant and partners encountered difficulties that put the project on hold and resulted in extended efforts to resolve financial interests.

The applicant is requesting a 3-year time extension to comply with Condition No.4 (complete construction) and the deletion of Condition No. 5 (curb, gutter & sidewalk improvements) as none of the other nearby medical facilities constructed these improvements.

Approval of this amendment request would not be contrary to the original reasons for the granting of the Use Permit. The request is not contrary to the original reasons for granting the Use Permit. The establishment of the proposed medical facility will continue to be a benefit to the residents of East Hawai'i. Approval of the amendment requests will not adversely affect existing similar uses and will assist the County in promoting the availability of comprehensive medical care to our residents.

The proposed request will not unreasonably burden public agencies to provide for infrastructure and utilities to the project site. Roads, electricity, water, wastewater disposal facilities and other essential services are available for the proposed use.

Additionally, the use will not substantially alter or change the essential character of the land and its present use. This area is made up predominately of medical and care facilities uses established by the Hilo Medical Center, the Yukio Okutsu Veterans Home, Hale Anuenue, the oncology facility, Kaiser Clinic and Hospice of Hilo, which are located in close proximity to the subject property. The establishment of a medical office on the subject property would not be out of character with these uses located within the immediate area nor would noise or visual impacts generated by the proposed facility adversely affect surrounding properties. The proposed facility will complement the existing institutional character of the surrounding area.

Approval of this amendment request would not be contrary to the General Plan or the Zoning Code. There have not been any changes to the General Plan for this area since this request was originally approved that would affect this project. The General Plan LUPAG Map designation of Low Density Urban would allow for uses which are single family residential in character, ancillary community and public uses. The proposed amendment request continues to complement the goals, policies and standards of the Land Use and Economic Elements of the General Plan.

The property is located within the State Land Use Urban District and the County's Single Family Residential (RS-10) zoned district. In 1995 when the application was

originally submitted, a medical facility could be permitted through the granting of a Use Permit in the RS zoned district. The applicant received approval of Use Permit No. 135 from the Planning Commission to allow the establishment of a medical office and related improvements.

Although a medical facility can no longer be approved in a residential zone with a Use Permit, the applicant did submit and receive a Use Permit in 1995 before the Zoning Code was changed. The Planning Director supports the request for a time extension for the existing Use Permit.

Additionally, the applicant is requesting the deletion of Condition No 5, which requires the applicant to construct curb, gutter and sidewalk improvements on the portion of the property that borders Waiānuenue Avenue. The Planning Director also supports this request as the other medical facilities in the area did not construct these improvements. The Department of Public Works was amendable with the request as well but recommended that access to the property be limited to a single location along Waiānuenue Avenue. A condition of approval will be added to reflect this request.

Based on the above information, the amendment request is approved with the following conditions. Material to be added is underlined, and material to be deleted is bracketed and struck through.

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.

2. The applicant shall indemnify and hold the County of Hawai'i harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the approval of this permit.

3. Final Plan Approval for the proposed facility shall be secured from the Planning Director. Plans shall identify proposed structures and/or improvements to existing structures, paved driveway access and paved parking stalls associated with the approved use. Landscaping along the project site's eastern, western and southern boundaries shall also be indicated on plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties.

4. Construction of the proposed facility shall be completed (certificate of occupancy) within 3 (three) years from the effective date of this [~~permit~~]amendment.

5. [~~The applicant shall provide curb, gutter, sidewalk and pavement widening improvements along the project site's entire frontage with Waiānuenue Avenue, exclusive of access points, in a manner meeting with the approval of the Department of Public Works, concurrent with the installation of curbs, gutters and sidewalk improvements for the proposed 120-bed long-term care facility as approved under Use Permit No. 117, but no later than five (5) years from the date of approval of this permit.~~]Access to the property shall be limited to a single location along Waiānuenue Avenue meeting with the approval of the Department of Public Works. The Waiānuenue Avenue frontage of the subject property shall be improved with a paved shoulder meeting with the approval of the Department of Public Works prior to the issuance of Certificate of Occupancy.

6. 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.

[~~6.~~]7. An initial extension of time for the performance of conditions within the amended 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; and

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).

[~~7.~~]8. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the request 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,

Rell Woodward

Rell Woodward, Chairman
Windward Planning Commission

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cc: Mr. Jeffrey Melrose
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Mr. Gilbert Bailado