

REPORT OF THE COMMITTEE ON ZONING

Charles K. Djou, Chair; Rod Tam, Vice-Chair
Romy M. Cachola, Ann H. Kobayashi, Barbara Marshall, Members

FILED
JAN 6 2005

GRANT TO ROH Sec. 1-2.5

Committee Meeting Held
February 3, 2004

Honorable Donovan Dela Cruz
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Zoning, to which was referred Resolution 04-01 entitled:

"RESOLUTION GRANTING A PLAN REVIEW USE PERMIT FOR THE
CONSTRUCTION OF A NEW HOSPITAL AND SUPPORT FACILITIES ON AG-
1 RESTRICTED AGRICULTURAL DISTRICT,"

as transmitted by Departmental Communication No. 17 from the Department of
Planning and Permitting (DPP), dated January 10, 2003, reports as follows:

The purpose of Resolution 04-01 is to grant to the Pacific Health Community, Inc., approval of a Plan Review Use (PRU) for the Pacific Health Center in Waipio. Your Committee notes that Resolution 04-01 has replaced Resolution 03-10 as the vehicle for the Council's consideration of this PRU application. Resolution 03-10 was filed on January 14, 2004 pursuant to ROH Section 1-2.5, which sets a one-year deadline for the adoption of resolutions.

Your Committee notes that in D-17 (2003), the DPP recommended that this PRU be approved, subject to a number of conditions. These conditions were enumerated in Committee Report No. 27 (2003), which the City Council adopted on February 26, 2003.

On February 26, 2003, the City Council held a public hearing on this application at which testimony in support of the application was received.

CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON _____

COMMITTEE REPORT NO. 32

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Your Committee had previously deferred action on this application because of two legal concerns, which are discussed in separate sections below:

HRS Section 323D-49

HRS Section 323D-49 provides:

No permit or license shall be issued by any county or state officer for the development, construction, expansion, alteration, conversion, initiation, or modification of a health care facility or health care service or for the operation of a new health care facility or health care service unless there is submitted in connection with the application for such permit or license a current certificate of need issued by the [State Health Planning and Development Agency ("SHPDA")] or a statement issued by [SHPDA] that the health care facility or health care service is not required to hold a certificate of need under this part.

The Corporation Counsel previously advised your Committee that this statute appears to preclude issuance of a PRU permit by the Council without the documentation required by the statute. The Corporation Counsel has been meeting with representatives of the Applicant, SHPDA, and the State Department of the Attorney General in an attempt to resolve this matter.

At your Committee's meeting on February 3, 2004, a Deputy Corporation Counsel stated that, based on these meetings, it initially appeared that the Department of the Attorney General would issue a letter opinion stating that HRS Section 323D-49 was not intended to apply to a PRU approval, but he was subsequently advised that an opinion would not be issued and instead SHPDA would issue a letter stating that a certificate of need was not needed for PRU approval.

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A letter to the Chair of your Committee from the Administrator of SHPDA, received by your Committee on February 3, 2004, (Miscellaneous Communication No. 131) was distributed to Committee members. The letter states that SHPDA supports the practice of issuing a PRU without requiring certificate of need approval. The letter states that at the PRU stage, many of the details required for the certificate of need application are not available. The letter states that the healthcare provider is still required to obtain a building permit, and a certificate of need is required before the building permit can be issued.

The Deputy Corporation Counsel was asked if this letter was sufficient to resolve the issue, and he stated he needed more time to review the letter and discuss it with the SHPDA Administrator. Your Committee expects that the Department of the Corporation Counsel will advise the Council of any problems prior to Council action on this matter.

Location of project site in the State Agricultural District

On September 23, 2003, the State First Circuit Court, in the case of The Sierra Club v. Land Use Commission of the State of Hawaii, et al., Civil No. 02-1-1759-07, vacated the Land Use Commission order that reclassified the land that included the project site from the Agricultural to the Urban District. This order has been appealed, but its effect is that the project site is currently located in the State Agricultural District, where uses such as the project are not permitted as of right by HRS Chapter 205. Thus, there is a legal question of whether a county permit approving, on State-designated Agricultural land, a use that does not appear to be currently permitted under State law, and for which no special permit has been issued pursuant to HRS Section 205-6, would be in conflict with HRS Chapter 205. This issue is discussed in greater detail in a memorandum from the Office of Council Services dated January 12, 2004 (Council Communication No. 7).

CITY COUNCIL

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HONOLULU, HAWAII

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Your Committee has attempted to address this issue by amending this Resolution to include the following additional condition, which was attached to Council Communication No. 7:

22. This PRU permit shall take effect upon the first to occur of the following:
- a. A State special permit is granted pursuant to HRS Section 205-6 that permits the Pacific Health Center project as approved herein;
 - b. The decision of the Circuit Court of the First Circuit, State of Hawaii, in The Sierra Club v. Land Use Commission of the State of Hawaii, et al., Civil No. 02-1-1759-07, is reversed or vacated by a higher court and is subject to no further appeals; or
 - c. The Land Use Commission, after proceedings in compliance with the Circuit Court decision in Civil No. 02-1-1759-07 and any appellate decision affirming the Circuit Court decision, including but not limited to the completion of an environmental assessment and, if required, an environmental impact statement, pursuant to HRS Chapter 343, enters a decision and order approving a boundary amendment by reclassifying the land for the Pacific Health Center project from the Agricultural to the Urban District.

In response to a question, the Deputy Corporation Counsel stated that the condition appears to adequately address the Agricultural District issue. Representatives of the Applicant stated that they had no objection to this condition.

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Your Committee finds that the Department of Planning and Permitting has found that this PRU is consistent with the vision, policies, principles, and guidelines set forth in the Central Oahu Sustainable Communities Plan established by Chapter 24, Article 5, Revised Ordinances of Honolulu 1990, as amended.

Your Committee further finds that responsible City and State agencies have indicated that adequate public facilities and utilities for the proposed development will be available at the time of occupancy, or that conditions to ensure adequacy are otherwise sufficiently addressed.

Your Committee further finds that this PRU application was accepted for processing by the DPP prior to the effective date (February 18, 2003) of the Central Oahu Sustainable Communities Plan, enacted as Ordinance 02-62. Your Committee further finds that ROH Section 24-5.4(c) provides that notwithstanding adoption of the Central Oahu Sustainable Communities Plan, applications for land use permits accepted by the DPP for processing prior to February 18, 2003, shall continue to be subject only to applicable ordinances and rules and regulations in effect at the time the application is accepted for processing. See Departmental Communication No. 1 (2000).

Accordingly, your Committee makes the following findings with respect to the Central Oahu Development Plan that was in effect at the time this PRU application was accepted for processing by the DPP:

Your Committee finds that this PRU is consistent with the Agriculture designation for the site on the Development Plan Land Use Map for Central Oahu. Your Committee also finds that the project is consistent with the general height controls in the Development Plan and with Population Objective C of the City's General Plan.

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In considering the project, your Committee has looked at the expected impact thereof on the living conditions of residents in the area in light of local area issues and the social impact factors set forth in ROH Section 24-1.10. Your Committee also has considered the issue of consistency of the project with the planned location and sequence of public facilities necessary to service the project and has found it to be consistent.

Your Committee on Zoning is in accord with the intent and purpose of Resolution 04-10, as amended herein, and recommends its adoption in the form attached hereto as Resolution 04-10, CD1. (Ayes: Djou, Cachola, Kobayashi, Marshall, Tam - 5; Noes: None.)

Respectfully submitted,


Committee Chair

2/18/04 Council Meeting: Resolution 04-01, CD1, recommitted to Zoning Committee.



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 04-01, CD1

RESOLUTION

GRANTING A PLAN REVIEW USE PERMIT FOR THE CONSTRUCTION OF A NEW HOSPITAL AND SUPPORT FACILITIES ON AG-1 RESTRICTED AGRICULTURAL DISTRICT.

WHEREAS, the Department of Planning and Permitting (DPP) on September 12, 2002, accepted the application of Pacific Health Community, Inc. (File No. 2002/PRU-1), herein referred to as the Applicant, for a Plan Review Use Permit (PRU) to construct a new hospital and support facilities on AG-1 Restricted Agricultural District, located along the northern side of Ka Uka Boulevard between Kamehameha Highway and H-2 Freeway, Waipio, Oahu and identified as Tax Map Keys: 9-4-006: Portion of 001 & 002; and

WHEREAS, the City Council held a public hearing on _____, to consider said application for a Plan Review Use; and

WHEREAS, on _____, the City Council, having duly considered all of the evidence and reports offered at said public hearing, recommended approval of the subject application for a Plan Review Use with certain conditions enumerated below; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that a PRU be issued to the Applicant under the following conditions:

1. This Plan Review Use includes the land area described on the map attached as Exhibit G (Four Zones of Development), exclusive of proposed lots 11 (portion), 12 and 13 that define Zone 3 of the project. The boundaries of the proposed Pacific Health Center shall be reduced to exclude development of Zone 3 – Medical Education and Research.
2. Development of the site shall be in general conformance with the attached Exhibit H (Conceptual Plan), and the plans on file with the Department of Planning and Permitting, and as described and modified in the Director's report. The Director of Planning and Permitting may approve minor or non-substantive deviations.
3. The Applicant shall submit a revised phasing plan that includes the Health Care Inpatient Expansion (hospital) within the first phase of development.
4. All work shall comply with all applicable Federal, State, and County regulations, standards, statutes, and ordinances, unless otherwise stated.



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5. A conditional use permit (CUP) for joint development shall be obtained for parcels that share facilities. This CUP shall be recorded with the State Bureau of Conveyances and shall run with the land as notice to all owners and tenants.
6. Any subdivision application shall designate a separate landscaped lot for the areas of Kipapa Gulch. This subdivision application shall designate public pedestrian access ways to, within, and around Kipapa Gulch. The gulch shall be preserved in its natural state and be owned and maintained by the project's master developer or lot owners association. A topographic map shall be submitted with any subdivision application to confirm the boundaries of this lot.
7. The proposed uses and facilities outlined in Exhibit I (List of Programs and Facilities) shall be considered principal permitted uses within the PRU project boundaries, except as noted herein. The Family Support Center shall only provide lodging to tenants directly utilizing the hospital and its related facilities. In addition, the warehousing and distribution facility shall not distribute off-site. Other uses not specifically mentioned in Exhibit I may be considered an accessory use only if they are accessory to facilities specifically outlined in the PRU.

To ensure that accessory uses remain directly related and supportive to the core hospital and health center functions, the Applicant shall incorporate the following into a restrictive covenant:

- a. Accessory facilities shall only be used by the PHC tenants and their guests;
 - b. Accessory facilities shall not be made available to the general public;
 - c. Accessory facilities shall not be advertised to the general public in any media; and
 - d. Areas designated for accessory uses shall be designed such that they shall not be served by separate exterior entrances or exits, except as required by applicable codes.
8. The maximum building area for the overall project shall be based on the total project land area (as modified) less roadways, utility easements, landscape easements, gulch areas, and commons. The total building area shall not exceed



RESOLUTION

15 percent. A plan to distribute the allowed building area to each development lot shall be submitted to the DPP for review and approval.

9. The maximum allowable density for the overall project shall be based on the total project land area (as modified) less roadways, utility easements, landscape easements, gulch areas, and commons. The floor area ratio (FAR) shall not exceed 0.30. A plan to distribute the allowed floor area to each development lot shall be submitted to the DPP for review and approval.
10. The maximum building height for the Health Care Inpatient Expansion structures shall not exceed 60 feet. The maximum building height for all other structures shall not exceed 45 feet. Additional height setbacks shall be required for the portions of structures exceeding 15 feet at a ratio of one foot for each two feet of additional height above 15 feet.
11. The minimum off-street parking requirement for the hospital and accessory uses shall be at 1 per 4 beds. All other proposed uses shall be as specified in the LUO.
12. The minimum off-street loading requirements for all proposed uses shall be as specified in the Land Use Ordinance (LUO).
13. All new and relocated utility lines in the project (including transmission lines) shall be located below grade.
14. Prior to the application of any grading or building permits, the Applicant shall submit an URBAN DESIGN PLAN for review and approval by the DPP. It shall include, but not be limited to, the following:
 - a. Revised master plan showing the revised project boundaries, project components, property lines, buildings, parking, landscaping, pedestrian pathways, and roadways.
 - b. Landscape master plan showing tree location, species, caliper, size, spacing, height, and spread. This plan shall incorporate pedestrian and bicycle routes, areas of Kipapa Gulch to be preserved, and streetscape improvements.
 - c. Water, wastewater, drainage, and circulation master plans of the Koa Ridge Makai for DPP, Site Development Division and Board of Water Supply review and approval. The circulation plan must illustrate the



RESOLUTION

project's compliance with guidelines for transit, pedestrian and bicycle routes and facilities. The circulation master plan shall provide an implementation plan of the State and City bike plans (including the proposed Kipapa Gulch/Old Kamehameha Highway Bikeway) within the subject site.

- d. Architectural design guidelines addressing permissible building uses, heights, floor and building areas, yards, setbacks and applicable codes and ordinances. Additional criteria shall also provide guidance for walls/fences, roof forms and architectural styles.
- e. Provisions to mitigate potential noise, lighting and visual impacts from the health care campus on the abutting residential areas. All exterior lighting shall be subdued or shielded to prevent glare and light spillage.
- f. Building area and floor area limitations for each development lot. The cumulative areas shall not exceed the overall floor area and building area restrictions noted above.
- g. Off-street parking and loading tabulations for each proposed use.
- h. Location of communication and helipad site(s), and showing method of screening or buffering them from public view.

The plan shall establish a design review process for new projects, with procedures established to implement and revise the standards as needed. The approved plan shall be incorporated into a restrictive covenant.

- 15. Prior to granting any building permit, a sign master plan shall be submitted to the DPP for review and approval. It shall include the standard types of signs, location, size, text, typeface, materials, and color. Each permitted use shall not exceed the sign standards of the B-2 Community Business District. Accessory uses shall not be permitted signage.
- 16. The Applicant or owner(s) shall incorporate this Plan Review Use Permit, Urban Design Plan and Sign Master Plan into the restrictive covenants, which run with the land, to serve as notice to all owners and tenants. The draft covenant shall be submitted for review and approval by the DPP. Upon approval of the covenant, a certified recorded copy shall be filed with the DPP, prior to the transfer of ownership to anyone not a party to this application.



RESOLUTION

17. Prior to granting any building permit, the Applicant shall submit to the DPP, Traffic Review Branch, for review and approval the transportation improvement phasing and implementation plans that address the following:
 - a. Implementation of other transportation measures to mitigate the anticipated traffic impacts to the surrounding roadway system.
 - b. An updated Traffic Impact Analysis Report (TIAR) prior to the submission of grading plans for each phase to include an analysis of the traffic signals and when they need to be installed.
 - c. A Transportation Demand Management (TDM) initiatives to encourage the use of multi-modal strategies, including mass transit, bicycling and pedestrian access.
 - d. Coordination of proposed roadway cross-sections with the City and submittal of conceptual design plans for review to include the lengths of separate turning lanes at intersections.
18. If the DPP, Traffic Review Branch, determines that mitigative traffic improvements become necessary, the Applicant shall provide, at its expense, the required roadway improvements in accordance with City standards.
19. Prior to the issuance of any grading permit, the Applicant shall provide written documentation that they have satisfied the concerns of the State Department of Transportation regarding local and regional transportation improvements and programs and have prepared an updated traffic impact analysis report for the proposed project.
20. The Applicant shall submit to the State Department of Health a solid waste and an infectious waste management plan for their review and approval.
21. Prior to the application for grading permits, the Applicant shall submit a report updating their compliance with the conditions of this PRU permit to the DPP for review.

In addition, on each anniversary date of the effective date of this PRU permit, the Applicant shall submit an annual progress report as to the status of all conditions to the City Council for review.



RESOLUTION

22. This PRU permit shall take effect upon the first to occur of the following:
- a. A State special permit is granted pursuant to HRS Section 205-6 that permits the Pacific Health Center project as approved herein;
 - b. The decision of the Circuit Court of the First Circuit, State of Hawaii, in The Sierra Club v. Land Use Commission of the State of Hawaii, et al., Civil No. 02-1-1759-07, is reversed or vacated by a higher court and is subject to no further appeals; or
 - c. The Land Use Commission, after proceedings in compliance with the Circuit Court decision in Civil No. 02-1-1759-07 and any appellate decision affirming the Circuit Court decision, including but not limited to the completion of an environmental assessment and, if required, an environmental impact statement, pursuant to HRS Chapter 343, enters a decision and order approving a boundary amendment by reclassifying the land for the Pacific Health Center project from the Agricultural to the Urban District.



RESOLUTION

BE IT FINALLY RESOLVED by the Council of the City and County of Honolulu that the Clerk be and is directed to transmit copies of this resolution to the Department of Planning and Permitting; Department of Transportation Services; State Department of Land and Natural Resources, Land Division; 333 Queen Street, Suite 300, Honolulu, Hawaii 96813; State Department of Transportation, Highways Division, 869 Punchbowl Street, Honolulu, Hawaii 96813; Caste & Cooke Homes Hawaii, Inc., P.O. Box 898900, Mililani, Hawaii 96789; Pacific Health Community, Inc., 650 California Avenue, Wahiawa, Hawaii 96786; and R.M. Towill Corporation, 420 Waiakamilo Road, Honolulu, Hawaii 96817.

INTRODUCED BY:

Charles K. Djou (BR)

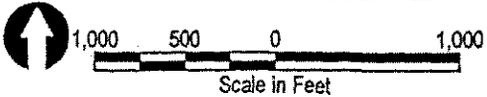
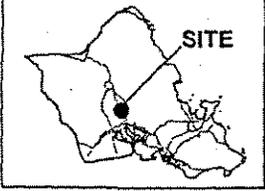
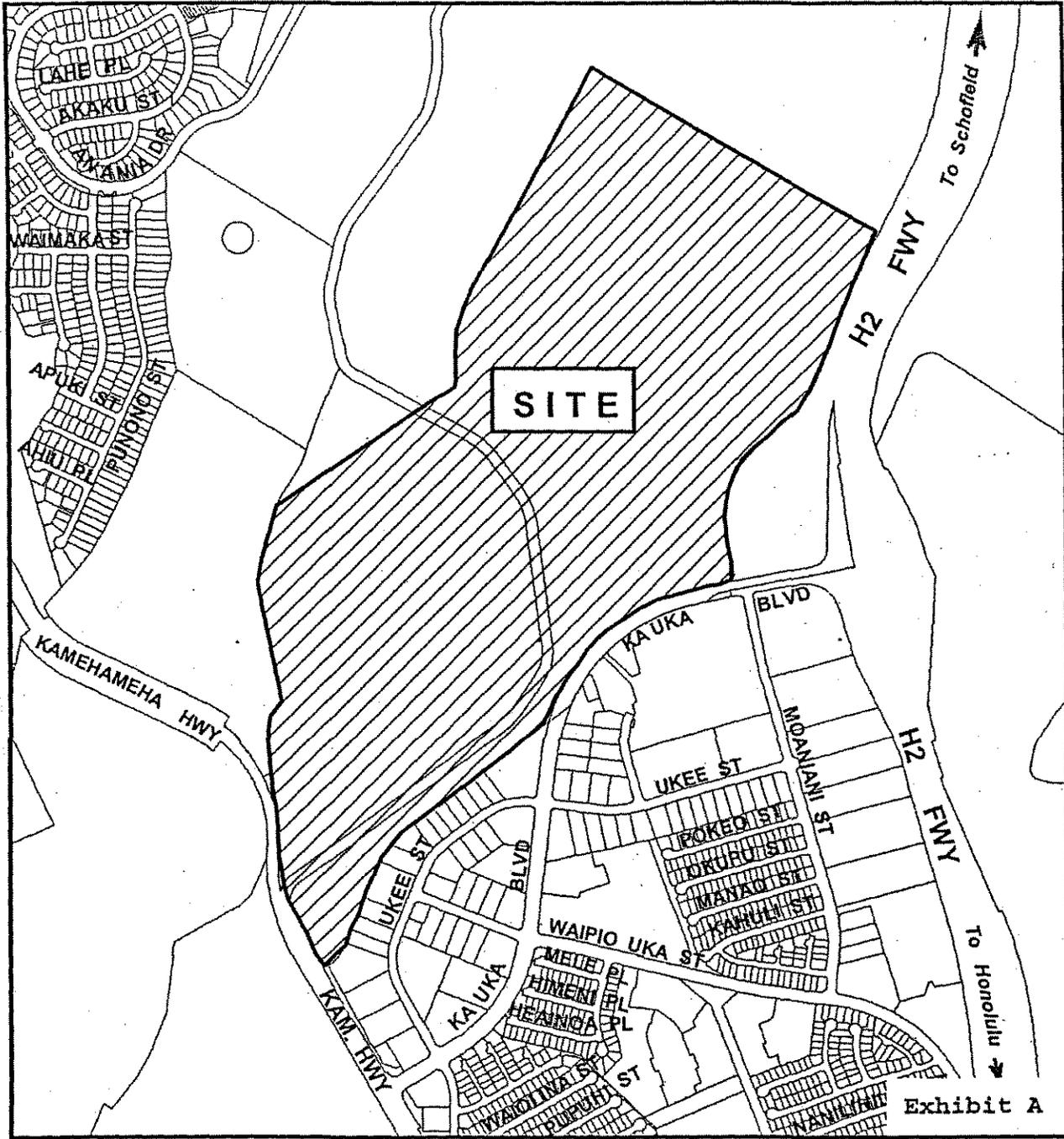
DATE OF INTRODUCTION:

January 5, 2004

Honolulu, Hawaii

Councilmembers

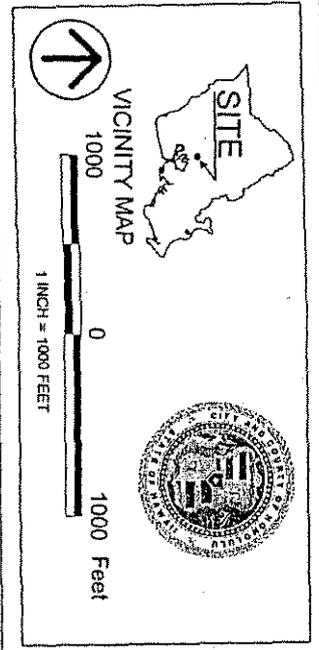
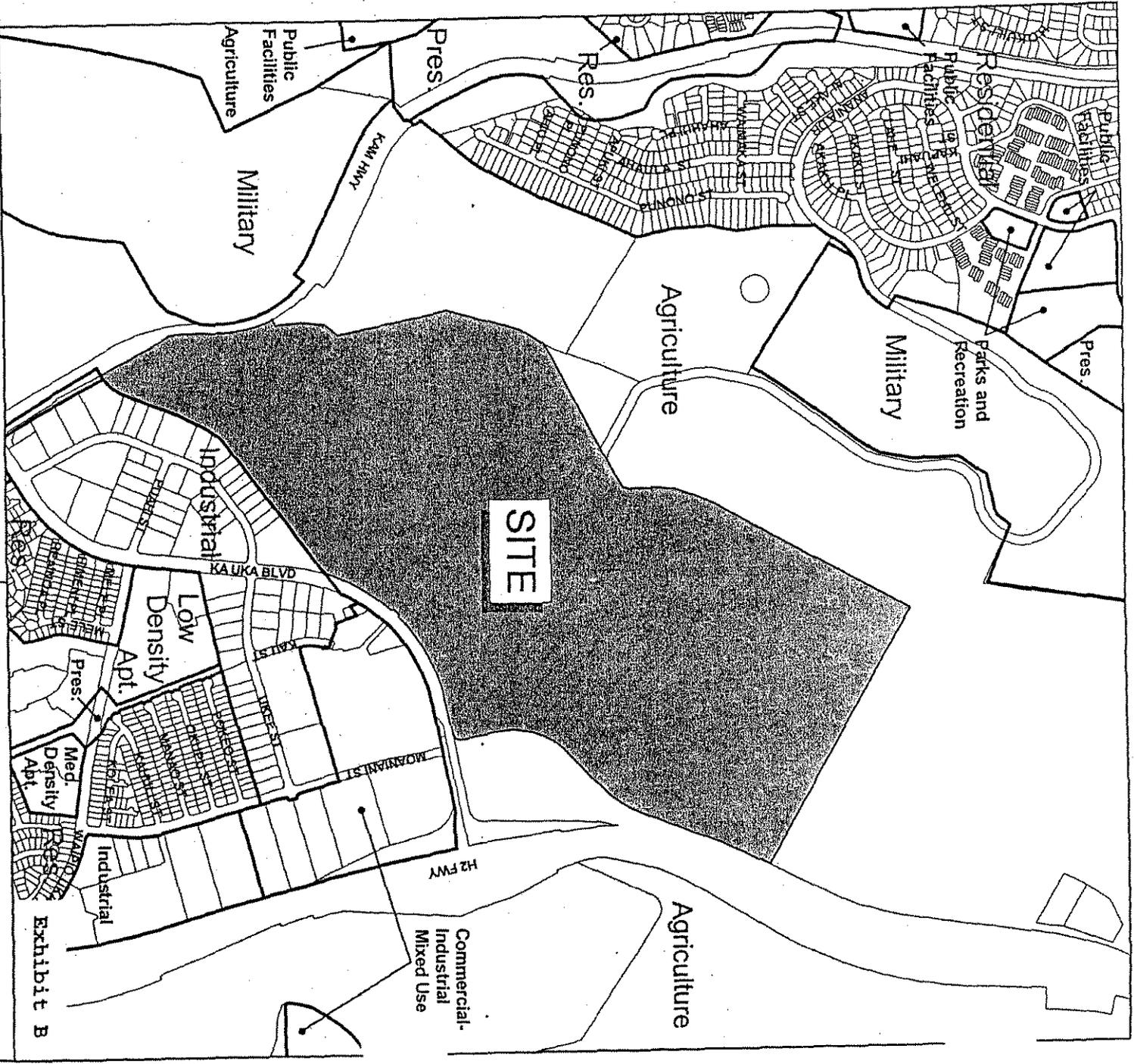
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LOCATION MAP
Waipio

TAX MAP KEY(S): 9-4-006: Portion of 001 & 002

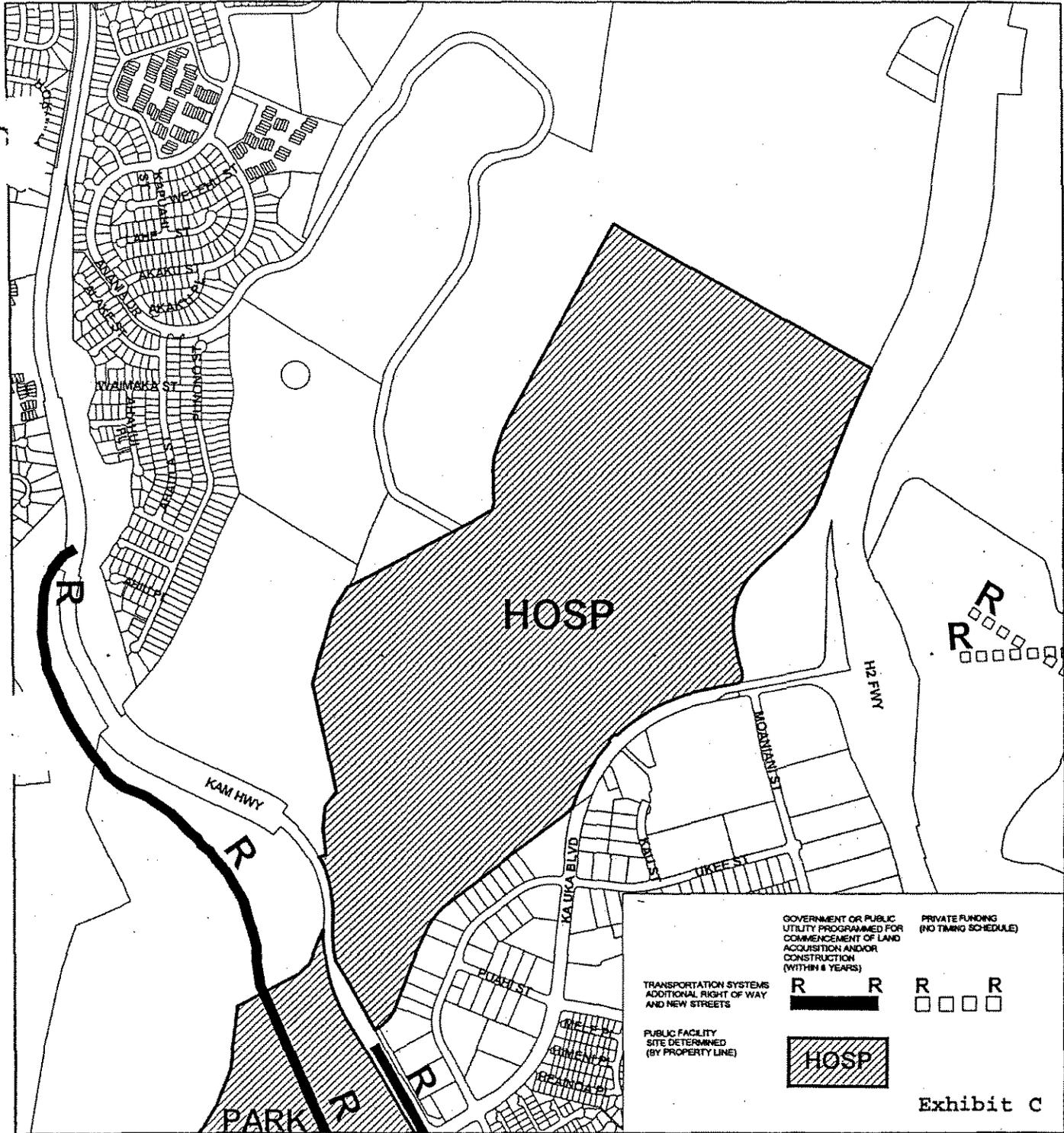
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**PORTION OF EXISTING
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CENTRAL OAHU**

**TAX MAP KEY(S): 9-4-6:1 & 2
FOLDER NO.: 2002/PRU-1**





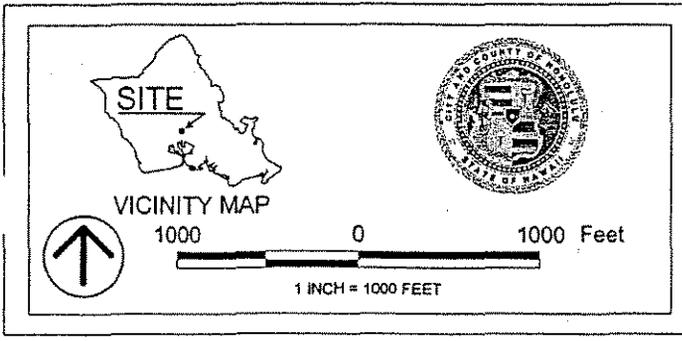
GOVERNMENT OR PUBLIC UTILITY PROGRAMMED FOR COMMENCEMENT OF LAND ACQUISITION AND/OR CONSTRUCTION (WITHIN 8 YEARS)

PRIVATE PLANNING (NO TIMING SCHEDULE)

TRANSPORTATION SYSTEMS ADDITIONAL RIGHT OF WAY AND NEW STREETS

PUBLIC FACILITY SITE DETERMINED (BY PROPERTY LINE)

Exhibit C



**PORTION OF EXISTING
DP PUBLIC FACILITIES
MAP, CENTRAL OAHU**

TAX MAP KEY(S): 9-4-6:1 & 2
FOLDER NO.: 2002/PRU-1

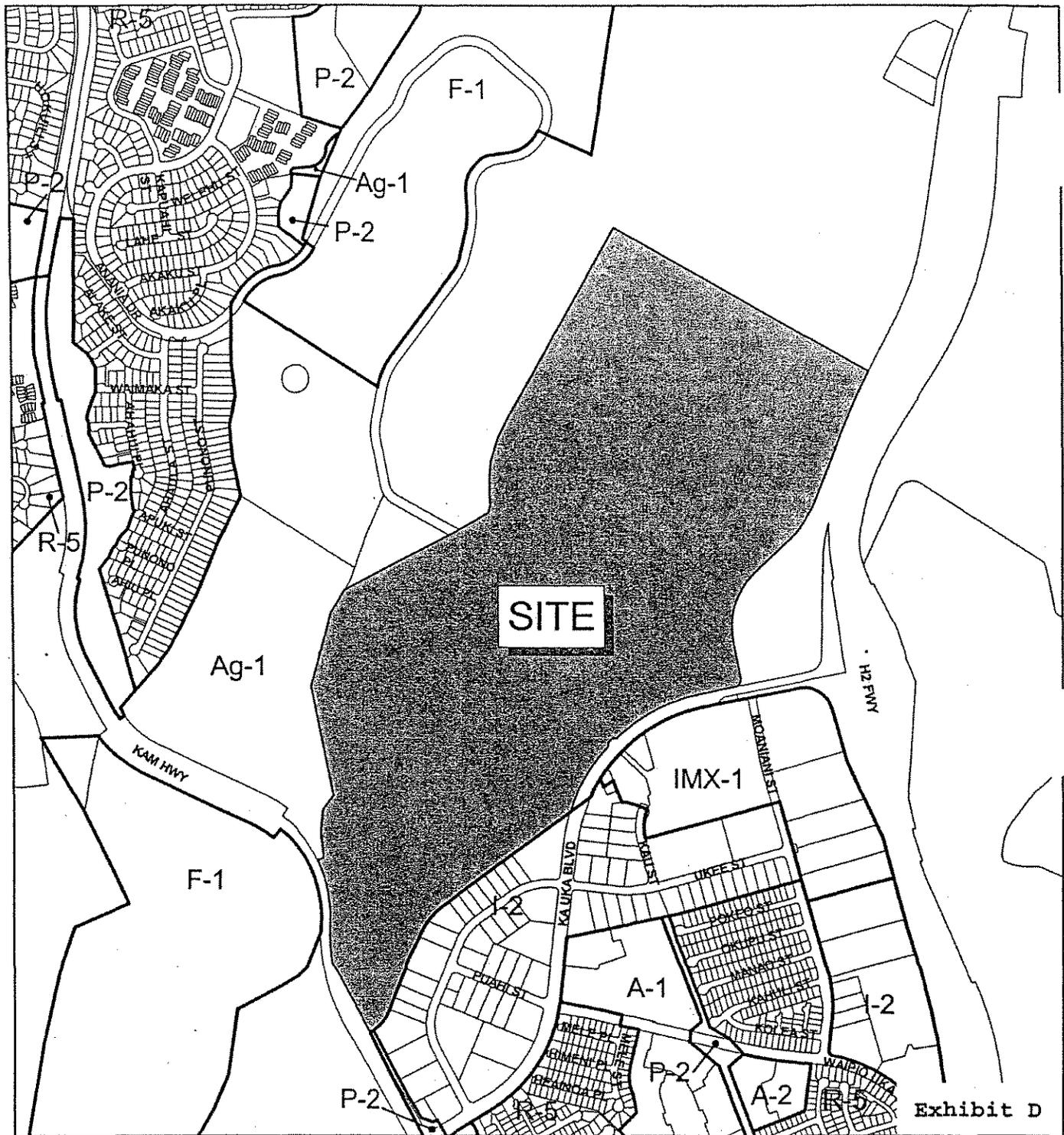
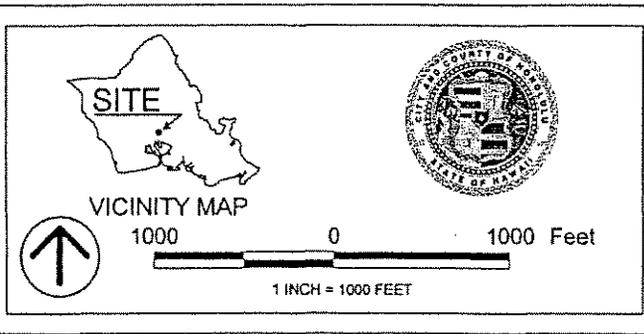
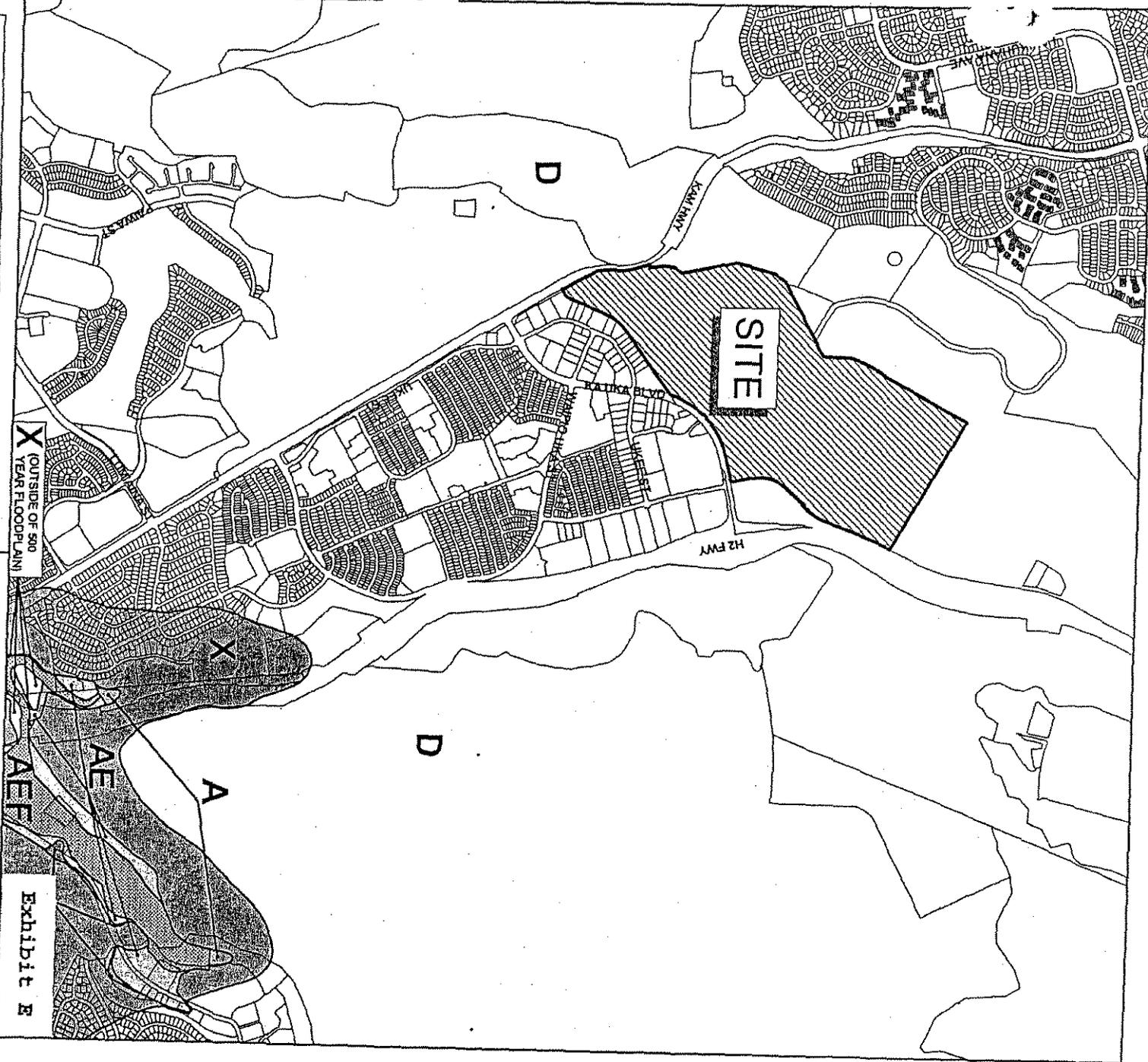


Exhibit D



PORTION OF EXISTING
ZONING MAP
WAIPIO (MAUKA) -
MILILANI
TAX MAP KEY(S): 9-4-6:1 & 2
FOLDER NO.: 2002/PRU-1



SITE

VICINITY MAP

2000
0
2000 Feet

1 INCH = 2000 FEET

**PORTION OF EXISTING
FLOOD MAP**

TAX MAP KEY(S): 9-4-6:1 & 2
 FOLDER NO.: 2002/PRU-1

Exhibit E

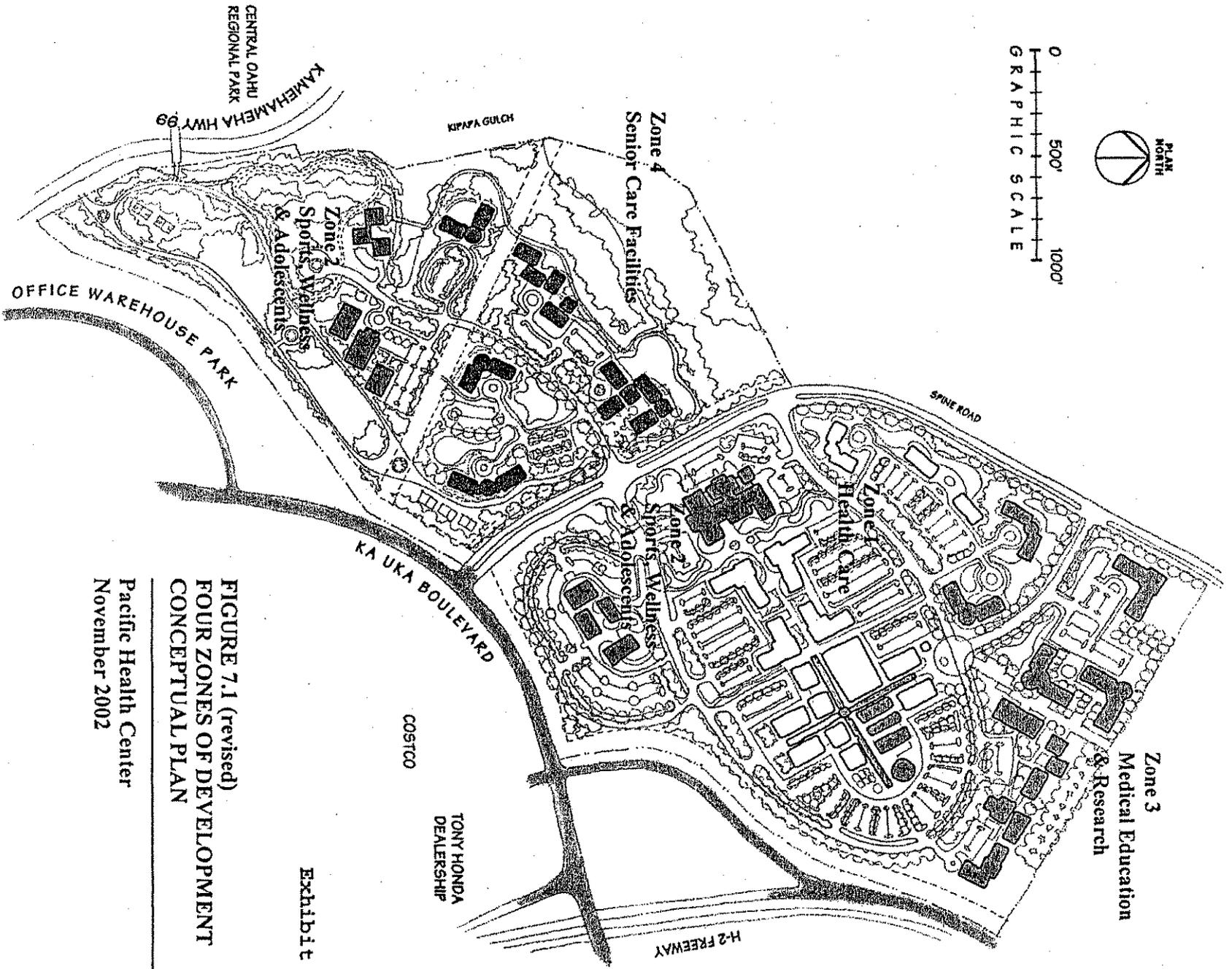


FIGURE 7.1 (revised)
FOUR ZONES OF DEVELOPMENT
CONCEPTUAL PLAN

Pacific Health Center
 November 2002

Exhibit H

Pacific Health Center
 Plan Review Use Permit
 2002/PRU-1

Exhibit I - List of Programs and Facilities

PROGRAMS and FACILITIES ¹
Pacific Sports Medicine and Research Center <ul style="list-style-type: none"> • Fitness Center - aquatics, aerobic studios, multipurpose studio, weight training, cardiovascular equipment, gymnasium, lockers, massage, café, pro shop, child care, wellness education, sports care, and support/administrative offices. • Clinical Services and Medical Services - outpatient physical therapy, occupational therapy, cardiac rehab, sports medicine, human performance center, and medical office space.
Wahiawa-Central Oahu Health Center <ul style="list-style-type: none"> • Diagnostic and Treatment Center - imaging center, ambulatory surgery center, and various clinical programming. • Physician Office Building - individual or group physician practices (108 physicians).
Health Care Inpatient Hospital and Expansion - general hospital, fast-track, urgent care, emergency, ICU beds, medical/ surgical beds, surgery suites, cardiovascular services, pharmacy, respiratory/pulmonary, physical medicine, dietary, imaging, laboratory/pathology, registration, business office, administration, and ancillary services (200 beds). <ul style="list-style-type: none"> • Pacific Women's Center and Birthing Center • Medical Education • Medical Research
Pacific Wellness Center <ul style="list-style-type: none"> • Pacific Health Mall <ul style="list-style-type: none"> • Healthy Lifestyle Retail Center - vitamin/nutrition shop, organic food store, wellness bookstore, resource/classroom, meditation and reading room, health food restaurant, and healthy cooking store. • Family Support Center - lodging for families of inpatients or for outpatients not requiring inpatient services (60 units @ 500 s.f. each). • Pacific Wellness Center <ul style="list-style-type: none"> • Center for Alternative Medicine - acupuncture, environmental medicine, homeopathic medicine, naturopathic medicine, traditional Hawaiian medicine, and traditional Asian medicine. • Athletic Evaluation and Training Center - classrooms, meeting areas, and support services.
Pacific Adolescent Center - alcohol and substance abuse, health and safety prevention, and educational programs. Hospice (40 beds) Alzheimer Center and Nursing Home (110 units)
Assisted Living Center (120 units)
Skilled Nursing and Long-Term Care (120 units)
Oncology Research and Treatment Center Pacific Cardiac Institute - cardiac risk appraisal, stress management, weight management, smoking cessation, nutrition counseling, diagnosis, cardiac catheterization, and angiography.
Warehousing and Distribution Pacific Biotech Institute

Note: ¹Programs and facilities listed according to lot numbers per application, Table 3, Page 25.
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