

November 3, 1982

Mr. Clifford Lum
Attorney at Law
192 Kapiolani Street
Hilo, HI 96720

Dear Mr. Lum:

Amendments to SMA Use Permit No. 121
and PDP No. 33
Petitioner: Fidelity Federal Savings and Loan
TMK: 7-5-20:14 & 27 and 7-5-21:1-3

On October 28, 1982, the Planning Commission held a public hearing and considered the request to amend Condition No. 4 of SMA Use Permit No. 121 and Condition No. 5 of PDP No. 33. The Commission voted to amend the permits to reflect the original intent of the Planning Commission regarding required off-street parking for the public shoreline access. The respective conditions will then read as follows:

4. That the plan approval submittal shall include either of the following:
 - a) delineation of a ten (10) foot wide improved pedestrian accessway from Ali'i Drive to the certified shoreline, four (4) public off-street parking stalls on the subject property with access to the shoreline accessway, and appropriate signage. Said improvements shall meet with the approval of the Planning Director and shall be installed prior to the issuance of an occupancy permit for development(s) on the subject property. All public areas shall be approved by the Planning Director and duly recorded as easement with the Bureau of Conveyances prior to the issuance of final plan approval; or

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b) delineation of four (4) public off-street parking stalls on the subject property and the installation of a sign or signs indicating the location and existence of a mauka-makai public pedestrian access on the adjoining property, identified by TMK: 7-5-21:4. This alternative, however, would be acceptable, provided that the applicant or his representative cooperate with the Planning Director to clearly demonstrate to the satisfaction of the Planning Director that:

- (1) the mauka-makai public pedestrian access on the adjoining property as identified by TMK: 7-5-21:4 can legally and practically serve as a public access to the shoreline for that general area; and
- (2) the public would be able to legally and physically traverse along the shoreline from the adjoining property as identified by TMK: 7-5-21:4 to the subject property during normal high tide.

In addition to the above, the public parking stalls shall be appropriately signed, approved by the Planning Director and duly recorded as easements with the Bureau of Conveyances prior to the issuance of final plan approval, and all improvements within these easements shall meet with the approval of the Planning Director and be completed prior to the issuance of an occupancy permit for development(s) on the subject property; or

c) That Fidelity Federal Savings & Loan will contribute a sum of money necessary for the acquisition of off-site property to provide public parking as well as pay for the legal expenses and the cost of the improvements to provide those four stalls prior to the issuance of building and occupancy permits. Improvements would be subject to the approval of the Planning Director, the Chief Engineer, and of the County Council.

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This alternative, however, would be acceptable, provided that the applicant or his representative cooperate with the Planning Director to clearly demonstrate to the satisfaction of the Planning Director that:

- (1) the mauka-makai public pedestrian access on the adjoining property as identified by TMK: 7-5-21:4 can legally and practically serve as a public access to the shoreline for that general area; and
- (2) the public would be able to legally and physically traverse along the shoreline from the adjoining property as identified by TMK: 7-5-21:4 to the subject property during normal high tide.

If you should have any questions on the above amendment, please do not hesitate to contact us.

Sincerely,



ALFREDO ORITA
Chairman, Planning Commission

KK:lgv

cc: Mr. Colin De Silva
Department of Public Works
Office of Corporation Counsel
County Kona Office

bcc: Land Use Controls Division, Planning Dept.

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

Application for)
SPECIAL MANAGEMENT AREA)
USE PERMIT)
by)
FIDELITY FEDERAL SAVINGS)
& LOAN) SMA USE PERMIT NO. 121
for)
155-UNIT CONDOMINIUM PROJECT)
AND RELATED IMPROVEMENTS)
at)
Kahului 2nd, North Kona, Hawaii)

SPECIAL MANAGEMENT AREA USE PERMIT

The County Planning Commission at duly held public hearings on November 15 and November 29 and December 12, 1979, considered the application of FIDELITY FEDERAL SAVINGS & LOAN for a Special Management Area Use Permit in accordance with Rule No. 9, Rules and Regulations Relating to Environmental Shoreline Protection, to allow the construction of a 155-unit condominium project and related improvements at Kahului 2nd, North Kona, Hawaii, Tax Map Key: 7-5-20:14 and 27 and 7-5-21:1, 2 and 3.

The Commission has found:

That the proposed development of a 155-unit condominium complex is not anticipated to have any significantly adverse environmental impact.

The subject property is not known to contain any unique ecological systems, nor provide habitats for any endangered plant or animal species. Further, while the subject property may have been a former Hawaiian habitation area most physical evidences and artifacts have previously been obliterated by grading activities.

While the development of residential units on the subject property may potentially have adverse effects on the off-shore water quality, such impacts will be mitigated through compliance with existing regulations.

The subject property is situated within the potential tsunami inundation area. As proposed, the first floor of living units would be 18 feet above sea level. To help minimize the threat from tsunami inundation, a recommended condition of approval is that the plans submitted for building

permit shall delineate the extent of the potential hazard area and that the development comply with the County Building Code.

Currently, there is access to the shoreline in this area within the adjacent properties to the north and south. However, the access to the south is over a private road and property with no legal provisions, such as easements, to assure that the public can continue to use this access. The access to the north is located on the Kailua side of the adjoining property. The development on the adjoining property, however, has been situated such that access along the shoreline is not passable during high tides and moderate wave conditions as the water washes up to the retaining wall of the structure inland of the certified shoreline. Thus, this access route is not always usable. Based on these concerns it is a recommended condition of approval that a public access be delineated and developed on the subject property together with off-street parking and appropriate signage, or that appropriate actions be taken to assure access to the shoreline fronting the subject property from the adjacent property to the north.

There is currently very limited views toward the ocean along the Ali'i Drive frontage of the subject property. Thus, the development of the property is not expected to severely detract from existing viewplanes. In addition, with appropriate building design and landscaping the visual impact upon the Ali'i Drive corridor can be significantly mitigated.

Therefore, the Commission hereby grants to the petitioner a Special Management Area Use Permit to allow the construction of a 155-unit condominium project and related improvements at Kahului 2nd, North Kona, Hawaii, Tax Map Key: 7-5-20:14 and 27 and 7-5-21:1, 2 and 3, pursuant to the authority vested in it by Rule No. 9, Rules and Regulations Relating to Environmental Shoreline Protection, subject to the following conditions:

1. That the petitioner or its authorized representative shall submit plans for and secure final plan approval within one (1) year from the effective date of the Special Management Area (SMA) Use Permit.
2. That construction shall commence within one (1) year from the date of receipt of final plan approval and shall be completed within two (2) years thereafter.
3. That the design and landscaping of the subject property shall minimize adverse impacts on adjoining properties and Ali'i Drive.
4. That the plan approval submittal shall include either of the following:
 - a) delineation of a ten (10) foot wide improved pedestrian accessway from Ali'i Drive to the certified shoreline, four (4) public off-street

parking stalls on the subject property with access to the shoreline accessway, and appropriate signage. Said improvements shall meet with the approval of the Planning Director and shall be installed prior to the issuance of an occupancy permit for development(s) on the subject property. All public areas shall be approved by the Planning Director and duly recorded as easement with the Bureau of Conveyances prior to the issuance of final plan approval; or

- b) delineation of four (4) public off-street parking stalls on the subject property and the installation of a sign or signs indicating the location and existence of a mauka-makai public pedestrian access on the adjoining property, identified by TMK: 7-5-21:4. This alternative, however, would be acceptable, provided that the applicant or his representative cooperate with the Planning Director to clearly demonstrate to the satisfaction of the Planning Director that:

- (1) the mauka-makai public pedestrian access on the adjoining property as identified by TMK: 7-5-21:4 can legally and practically serve as a public access to the shoreline for that general area; and
- (2) the public would be able to legally and physically traverse along the shoreline from the adjoining property as identified by TMK: 7-5-21:4 to the subject property during normal high tide.

In addition to the above, the public parking stalls shall be appropriately signed, approved by the Planning Director and duly recorded as easements with the Bureau of Conveyances prior to the issuance of final plan approval, and all improvements within these easements shall meet with the approval of the Planning Director and be completed prior to the issuance of an occupancy permit for development(s) on the subject property.

- (3) That Fidelity Federal Savings & Loan will contribute a sum of money necessary for the acquisition of off-site property to provide public parking as well as pay for the legal expenses and the cost of the improvements to provide those four stalls. Improvements would be subject to the approval of the Planning Director, the Chief Engineer, and of the County Council.

5. That the sewage treatment plant, and cooling tower shall be located in the northern side of the subject property.
6. That the plans submitted for plan approval and building permit shall delineate the extent of the potential tsunami inundation area. Further, the design and construction of the condominium complex shall comply with the County Building Code.
7. That should any unanticipated archaeological sites be discovered during grading, excavation or other phases of construction work shall immediately cease and the Planning Director notified. Work shall not resume until approval has been secured from the Planning Director.
8. That the requirements of the State Department of Health shall be complied with.
9. That all other applicable rules, regulations and requirements shall be complied with.

Should any of the foregoing conditions not be met, the Special Management Area Use Permit may be deemed null and void by the Planning Commission.

The effective date of the permit shall be December 12, 1979.

Dated at Hilo, Hawaii, this 12th day of June, 1980.

for: William J. Paris Jr.
 WILLIAM F. MIELCKE
 Chairman, Planning Commission

APPROVED AS TO FORM
 AND LEGALITY:

R. J. Toulazadi
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date: 30 May 80