

PLANNING COMMISSION

Planning Department
County of Hawaii
Hilo, Hawaii

APPLICATION FOR)	
SPECIAL MANAGEMENT AREA)	
USE PERMIT)	SMA USE PERMIT
by)	NO. <u>141</u>
JOSEPH KEALOHA, JR.)	
for)	
A 92-LOT SUBDIVISION AND)	
IMPROVEMENTS INCLUDING A)	
CEMETERY LOT)	
in)	
HOLUALOA, NORTH KONA, HAWAII)	

SPECIAL MANAGEMENT AREA USE PERMIT

The County Planning Commission at a duly held public hearing on September 29, 1980, considered the application of JOSEPH KEALOHA JR., for a Special Management Area Use Permit in accordance with Rule No. 9 of the Planning Commission, Rules and Regulations Relating to Environmental Shoreline Protection to allow the development of a 92-lot subdivision and related improvements including a cemetery lot in Holualoa, North Kona, Hawaii, Tax Map Key 7-6-13:11.

The Commission has found the following:

That the approval of the subject request will not result in the loss of valuable natural, cultural, or recreational resources of the coastal zone. No rare native or endemic plants and/or animal species are known to inhabit the site. In addition, since the property is located mauka of Ali'i Drive, the proposed development is not expected to have any significant adverse effects on coastal resources, detract from lines of sight toward the ocean nor adversely affect any existing public access to the shoreline.

No adverse impacts on air quality is expected to be generated by the proposed development. The nature of the proposed development is such that no unusual air emissions are likely to be produced from it. Air emissions generated during the construction phase can be mitigated by existing regulations.

All essential utilities and services are or will be made available to the area. Although concerns have been expressed regarding the drainage of the area, mitigating conditions of approval will be imposed. Further, in regards to the access to the property, the petitioner would be required to receive approval from the Department of Public Works. As such, it is determined that the request also conforms to the General Plan Single Family Residential element which states that "Single-family residential zoned areas shall be conveniently located with reference to shopping and other public and private services and shall be provided within easy and convenient access

to employment centers," and also that such "Areas shall have basic improvements and amenities necessary for immediate use."

Therefore, the Commission hereby grants to the petitioner a Special Management Area Use Permit to allow the development of a 92-lot subdivision and related improvements including a cemetery lot in Holualoa, North Kona, Hawaii, pursuant to the authority vested in it by Rule No. 9 of the Planning Commission.

Approval of the Special Management Area Use Permit is subject to the following conditions:

1. That the conditions as spelled out in the Change of Zone Ordinance be complied with.
2. That Condition B of the Change of Zone Ordinance shall be expanded to read as follows:

That prior to the granting of final subdivision approval for the proposed development, there shall be legal and financial assurances, meeting with the approval of the Chief Engineer, and Corporation Counsel that the drainage improvements--as required herein--shall be completed within one (1) year of the date of receipt of final subdivision approval. These drainage improvements shall be designed to handle 100-year frequency flood waters, meeting with the approval of the Chief Engineer, and shall be installed following the Shimabukuro Master Plan on file with the Department of Public Works, except as may be modified to fulfill other statutes and/or regulations. These improvements shall extend from the mauka boundary of the subject property to the shoreline or to an area deemed acceptable by the Chief Engineer.

In lieu of the above, the petitioner and/or his representative may initiate proceedings for the required drainage and related improvements by assessment pursuant to Chapter 16, Hawaii County Code and Chapter 67, HRS; provided that an agreement is executed prior to the issuance of final subdivision approval for the development between the petitioner and/or his representative and the County of Hawaii through the Chief Engineer, Planning Director, and Corporation Counsel with the following provisions:


- a. an acceptable improvement district petition for the required drainage and related improvements is submitted to the County Council for its appropriate action prior to the issuance of final subdivision approval;
- b. an adequate and acceptable surety bond, certified check or other security acceptable to the Chief Engineer and approved by the Corporation Counsel in the sum equal to the estimated costs of the required improvements, including related land acquisition, design, and administrative costs shall be submitted to the County together with the improvement district proposal. The Chief Engineer shall determine the amount of the required security prior to the Planning Director's issuance of final subdivision approval of the proposed development;

- c. in the event the improvement district proposal is rejected or not acted upon by the County Council prior to the issuance of final subdivision approval for the development or within one (1) year from the date of submittal, whichever is later, the County shall be empowered to use the bond or other security which accompanies this agreement to initiate and complete the required drainage improvements;
 - d. in the event the County Council accepts the improvement district proposal, the bond or other security shall be retained until the improvements are completed or other security to assure the completion of the required improvements is accepted by the Chief Engineer and approved by the Corporation Counsel;
 - e. the bond and other security may be adjusted, at the mutual agreement of both parties, to reflect a reduction of the estimated cost of improvements by the inclusion of other parties within the improvement district or an overestimate of the costs; provided, however, the County may increase the bond or other security prior to the issuance of a building permit and/or after the disposition of the improvement district proposal by the County Council to reflect a more accurate cost estimate of the required improvements; and
 - f. that the agreement shall indemnify and hold the County forever harmless against loss from any and all future claims, actions, contributions, and any damages arising from (1) any flooding on or adjacent to the subject area; and (2) any errors, omissions, or negligent acts of the applicant, its officers, agents, employees, or subcontractors in connection with the construction of the flood drainage improvements; whichever may occur during the period between the granting of final subdivision approval and completion of the flood drainage improvements.
3. That until such time that the roadways within the adjacent Komohana Kai Subdivision are dedicated and accepted by the County, the petitioner shall submit a written consent from the developer(s) of the Komohana Kai Subdivision that the roadways within that subdivision may be used by the petitioner. Such written consent shall be filed at the time of subdivision review.
 4. That the recommendations as presented in the Archaeological Report prepared by Archaeological Research Center Hawaii, Inc. (July 1979) be carried out meeting with the approval of the Planning Department. Further, should any unanticipated archaeological sites or remains be uncovered during land preparation activities, work shall immediately cease and the Planning Department notified. Work shall not resume until clearance is received from the Planning Department.
 5. That all other applicable rules, regulations and requirements be complied with.

Should 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 this Permit shall be September 29, 1980.

Dated at Hilo, Hawaii, this 8th day of January, 1980.



WILLIAM J. PARIS, JR.
Chairman, Planning Commission

APPROVED AS TO FORM AND LEGALITY:



DEPUTY CORPORATION COUNSEL

Date: 23 Dec 80