

December 26, 1980

Mr. L. C. Ransler
c/o Mr. Roger Harris
225 Queen Street, Suite 100
Honolulu, Hawaii 96813

Dear Mr. Ransler:

✓Special Management Area Use Permit Application
Planned Development Permit Application
Tax Map Key 2-1-17:33 and 35

The Planning Commission at its duly held public hearing on December 16, 1980, considered your applications for a Special Management Area (SMA) Use Permit and a Planned Development Permit (PDP) to allow the development of a 36-unit condominium project and related improvements at Keaukaha, South Hilo, Hawaii.

The Commission voted to deny the SMA Use Permit application based on the following findings:

In accordance with Chapter 205-A, Hawaii Revised Statutes, and Rule 9, Special Management Area Rules and Regulations for the County of Hawaii, in approving a Special Management (SMA) Use Permit, the Planning Commission must find "That the development is consistent with the County General Plan, zoning and subdivision codes and other applicable ordinances." (Emphasis added) Likewise, the Planned Development Permit (PDP) provisions of the Zoning Code also state that the development must also be compatible to the General Plan.

Although the area is currently zoned for resort uses (V-S-.75), this zoning classification is in conflict with the General Plan land use designation. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area for Low Density Urban Development. This General Plan land use category does not allow resort/condominium uses. The reason for this conflict results from the change made to the LUPAG Map during

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the 1979 General Plan Revision Program. This area was previously designated for resort uses prior to the 1979 revision program. The following reasons for the change in land use designation were presented in the report prepared by the Planning Department for the revision program (November 1978):

"Proposed resort changes for the LUPAG Map include the designation of the areas recently added to Lelewi Park to Open. This is in keeping with the existing use of these sites and reflects their recreational nature. The other changes proposed are from Resort to Low Density Urban. These areas are small and isolated, and are not conducive to significant resort development necessary to accommodate the volume of visitors brought through the gateway. It is felt that resort uses would be better accommodated at other areas which are of sufficient scale to provide more complete facilities or have special locational features such as the Banyan Drive, Wailoa Pond and Papai areas. Further, the Keaukaha coast is an important recreational resource which should be retained for the enjoyment of residents and visitors alike. Redesignation to Low Density Urban would help retain the present character of the area and preserve the recreation potential of the area."

It is also significant that, although the area has been re-designated in the General Plan only recently to low density residential uses, the Hilo Community Development Plan (CDP) adopted as Resolution No. 1 by the Planning Commission in 1975, already recognized the recreational importance of this area as well as the rest of the Keaukaha coastal area. Thus, the Hilo CDP suggested that the area be zoned for Single Family Residential (RS-15) uses. The reasons for this recommendation are as follows:

- "1. The Keaukaha shoreline area is a highly attractive feature with considerable recreation potential which should be preserved, to the extent possible, for public use to serve residents of Hilo as well as visitors. Strong public sentiment has been expressed for the preservation of the Keaukaha coast.
- "2. The Keaukaha Coast does not meet the locational criteria for hotels set forth in the CDP.
- "3. For hotel development and other intensive urban uses, the Keaukaha Coast has the disadvantages of being exposed to tsunamis, being near the airport runway and the noise of airplanes, and having rather limited access via Kalaniana'ole Avenue.

"4. Development within the existing resort zones in Keaukaha has been multi-family residential, indicating that this coast has not met the locational needs of hotel developers."

The Lelewi coastline, including the land makai of the subject area, has been identified as being an important visual/scenic resource by the Hilo CDP. Because of this importance, the CDP's Natural Beauty and Urban Form section suggests that development in this area be limited to low-rise development with a maximum height of 2-1/2 stories. The CDP states that "The views of and from many points along the shoreline are highly scenic and a trail is recommended to generally follow the Shoreline connecting points of interest. Numerous recommendations have been made relative to protecting and improving the shoreline and the recommended building height and bulk controls indicate no additional high rise buildings near the shore."

The proposed development is also inconsistent with other portions of the General Plan as will be discussed later in this recommendation with regard to related policies, objectives, and guidelines of Chapter 205-A and Rule No. 9.

Chapter 205-A and Rule No. 9 also state that no development shall be approved unless the Planning Commission has first found "That the development will not have substantial adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interests. Such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each of which taken in itself might not have a substantial adverse effect, and the elimination of planning options." (Emphasis added) Such an express concern for the preservation of planning options follows a stated purpose for the enactment of Chapter 205-A, which is to provide for special controls on developments within coastal areas to avoid permanent losses of valuable resources and the foreclosure of management options. As presented earlier, the area was designated for low density residential uses. Granting higher density usage of the property would definitely reduce or eliminate planning options for the area. If a higher density use is allowed and a building constructed, it would be difficult, if not impossible, to require the subsequent removal of the structure and related improvements in order to re-commit the land to low density uses. Therefore, to avoid the foreclosure of the planning options, it is concluded that this particular higher density request should be denied.

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Chapter 205-A and Rule 9 also state that no development may be approved unless it is found that the development is consistent with the objectives, policies, and special management area guidelines.

Two (2) of the objectives as articulated in Chapter 205-A and Rule No. 9 are to "Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources" and to "Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems."

The natural resources, such as the shoreline and recreational areas, are those physical facts in our environment which are recognized as useful, valuable, and desirable to our livelihood. They constitute a basic part of the General Plan, as they are relative to every element and land use, and have social and economic ramifications. If mismanaged or used without care, natural resources are, for the most part, irreplaceable. Because of increasing population and urbanization placing a greater demand on our limited resource base, the utilization and protection of these are of vital concern. In this regard, the General Plan has set forth as goals, in the Natural Resources and Shorelines element, the protection and conservation of the natural resources from undue exploitation, encroachment and damage, and to "provide opportunities for the public to fulfill recreational and educational needs without despoiling or endangering natural resources."

It is felt that the proposed development does not serve the above-stated goals and objectives, as well as the policies of Chapter 205-A and Rule No. 9 to "Insure that new developments are compatible with their visual environment by designing and locating such developments to minimize the alterations of natural landforms and existing public view to and along the shoreline" and to "Preserve, maintain, and, where desirable, improve and restore shoreline open space and scenic resources."

The area under consideration has been identified as a potential tsunami inundation area on the draft Flood Insurance Rate Map (FIRM) prepared by the Federal Insurance Administration. The goals of the Flood Control and Drainage element of the General Plan are "To protect human life," and "To prevent damage from inundation." To implement these goals, this element of the General Plan sets as policies that "Potential tsunami inundation areas and areas subject to high seas damage

shall be established and identified for public safety," and that "In areas vulnerable to severe damage due to impact of wave action, restrictive land use and building structure regulations must be enacted relative to the potential for loss of life and property. Only uses which cannot be located elsewhere due to public necessity and character, such as maritime activities and the necessary public facilities and utilities would be allowed in this areas."

It is felt that to allow higher density residential uses for this particular property would greatly increase liabilities as a result of any tsunami or high wave actions, especially due to the limited access to the area. Although there is a tsunami escape access road in the general area, this roadway is determined to be inadequate should a natural disaster such as a tsunami occur. As such, the granting of this particular request would be contrary of the stated General Plan goals and policies, as well as the objectives of Chapter 205-A and Rule No. 9 which state to "Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, and subsidence."

The location of the subject area relative to the present alignment of Kalaniana'ole Street may not necessarily be the best situation. The property is situated at the curve of the road and because of it, there may not be adequate sight distance from both directions. The subject area is also situated only about 180 feet and 210 feet from the Kalaniana'ole Street-Kolea Street intersection and Kalaniana'ole Street-Kioea Street intersection, respectively. Because of these circumstances relative to the road curvature and the closeness of the property to two (2) roadway intersections, a hazardous situation may be created from a traffic circulation standpoint. Therefore, the granting of this particular request at its particular location for the intended use may not be in the best public interest and welfare.

Thus, while there may be possible mitigative measures that could be taken to minimize anticipated adverse environmental and ecological effects, it is felt that approval of this request would be contrary to goals, policies, and LUPAG Map of the General Plan and its implementing document, the Hilo CDP. It is true that there are other properties that have been subjected to the same substantive considerations and that have been approved with mitigative conditions. In this particular instance, however, the required application of these substantive considerations contained in the General Plan, leave little, if any, room for a different conclusion. As a result, the project would not be consistent with the objectives, policies, and SMA guidelines as stated in Chapter 205-A, HRS and Rule 9, and the Planned Development Permit (PDP) provisions of the Zoning Code.

Mr. L. C. Ransler

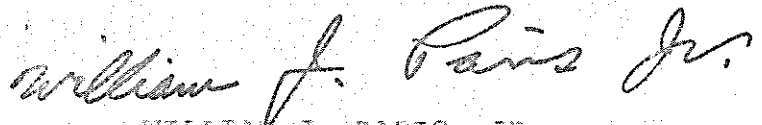
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For your information, since the SMA Use Permit was denied, no action is required for the PDP application.

A denial by the Commission is appealable to the Third Circuit Court of the State of Hawaii in accordance with Chapter 91, HRS, as amended.

We will be forwarding you a copy of the Denial Order as soon as the document is prepared. Should you have any questions, please feel free to contact the Planning Department at 961-3288.

Sincerely,



WILLIAM J. PARIS, JR.
CHAIRMAN, PLANNING COMMISSION

NH:lgv

cc: Building Division, Public Works

bcc: Masa, et al