

CERTIFIED MAIL

April 18, 1985

Mr. Sidney Fuke
Planning Consultant
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area (SMA) Use Permit and
Shoreline Setback Variance Applications
Applicant: Homay Naraghi
Tax Map Key: 7-5-09:30, 31 & 59

The Planning Commission at its duly held public hearing on April 9, 1985, voted to approve the applications, Special Management Area Use Permit No. 85-4 and Shoreline Setback Variance No. 85-3, to allow the construction of a 45,500 square foot shopping mall and related improvements, a portion of which is within the minimum forty-foot shoreline setback area, at Hienaloli 6th-Puna 2nd, Kailua, North Kona, Hawaii.

Approval of this request is based on the following:

The proposed development will not result in the loss of valuable natural, cultural or recreational resources of the coastal zone.

An endemic plant specie known as the loulu palm has been identified on the property. With the assistance of an ethnobotanist, the developer is encouraged to preserve them either by relocation of the trees or redesign of the development around the palms.

While there are no historic sites registered with the State or National Register of Historic Places, a family burial area and several sites were surveyed on one parcel relating to a previously proposed development. Test excavations revealed one burial site, but its modern origin prohibited its removal for salvage purposes. The Department of Health must be notified and its regulations complied with if removal is required because of any construction.

Although the petroglyphs and papamu located on the subject parcels are not considered significant features, they shall either be relocated on site or with a suitable repository, such

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as a museum. Bishop Museum is willing to coordinate these preservation efforts with the applicant. To further ensure adequate protection and recordation of possible archaeological remains, a qualified archaeologist must be on-site during surface and subsurface bulldozing.

Since the property is located mauka of Ali'i Drive, and the fact that the intervening area is urban in character, the proposed development is not expected to have any significantly adverse environmental or ecological effects on the adjacent properties and the coastal area or nearshore waters.

The proposed development will partially obstruct the viewplane from Kuakini Highway. However, its one-story height at the Kuakini level and the visual corridor along the southern property line should provide adequate vistas.

The proposed development will not remove or impose restrictions on existing access routes to beaches or similar shoreline recreation areas. In fact, the proposed crosswalk on Ali'i Drive from the shopping mall to the shoreline will enable pedestrians to cross Ali'i Drive within a safely designated pathway. Approval from the County Council, nevertheless, is required.

No adverse impacts on air and water quality are expected to be generated by the proposed development. Dust emissions and noise during the construction phase can be mitigated by existing regulations. Negative impacts on the local water quality resulting from soil erosion and runoff during site preparation and construction phases are unlikely, but should they occur they can be adequately mitigated through compliance with existing ordinances and regulations.

All infrastructure can or will be made available to the project site. Sewage disposal shall be into the existing municipal sewerage system. County water is available provided the petitioner meets with the requirements of the Department of Water Supply through the Kona Water Source Agreement II.

The lack of curbs, gutters, and sidewalks in this urban area will be a detriment to the project which intends to attract foot traffic from the Hilton Hotel area to the south and Kailua Village to the north. The imposition of curbs, gutters, and sidewalks, including provisions for the handicapped, is being recommended for both Ali'i Drive and Kuakini Highway frontages. The design must be approved by the Department of Public Works in order to be consistent with similar improvements constructed along Ali'i Drive to the south. With the continued development

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of the sidewalks, pedestrian safety and convenience will be increased and emergency evacuation will be facilitated.

Parking has been identified as an on-going major problem for Kailua Villagers and businesses. Based on the proposed space use, the shopping complex would require a total of 305 parking stalls. The proposal calls for only 167 stalls, a shortage of 138 stalls. The fact that the development intends to promote walk-in traffic should alleviate this parking problem to a slight degree. The overall deficit of regular, handicapped, and loading space stalls will have to be made up through the acquisition of additional off-site stalls meeting with the approval of the Planning Director; or through the reduction of the area being used; or by utilizing the "sharing" criteria for non-competitive uses set forth in the Hawaii County Zoning Code. An off-site program could range from shuttle service for employees to leasing a nearby lot for parking purposes. A recommended condition of approval requires compliance with the parking requirements prior to the final Plan Approval.

The probability of congested traffic along Ali'i Drive has raised public concerns. However, the subject project, when completed, will be one of the few that connects Ali'i Drive to Kuakini Highway. This positive feature should be utilized to the advantage of the public as well as the shopping plaza.

With these conditions in place, it is determined that the request will not be materially detrimental to the public welfare nor cause substantial, adverse impact to the community's character or to surrounding properties; nor would the use adversely affect similar or related existing uses within the surrounding area or community.

It is determined that approval of a shoreline setback variance will not be inconsistent with the purpose and intent of Planning Commission's Rule 8 relating to shoreline setback variance or with Chapter 205, HRS. That is, to prevent structural encroachment upon the shoreline area which might disturb the natural shoreline processes and cause erosion. They are also intended to preserve the shoreline and its open space character as well as to restrict the removal of material such as sand, coral, and rocks for commercial use. The Planning Commission can approve a variance only if a hardship exists or if public interest is being served.

In this particular case, the subject property is not a shoreline property. It is situated along the mauka side of Ali'i Drive which abuts the shoreline. At this section, Ali'i

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Drive is 30 feet wide; and, thus, only 10 feet of the subject property along Ali'i Drive is within the shoreline setback area. Since the property is not immediately adjacent to the shoreline, the granting of this particular variance request will not disturb the natural shoreline processes. Mauka-makai access to the shoreline through the property will be improved by the proposed development.

Based on the above, it is determined that approval of the SMA Use Permit and Shoreline Setback Variance will not be in conflict with the stated objectives and policies.

Approval of the SMA Use Permit and Shoreline Setback Variance requests are subject to the following conditions:

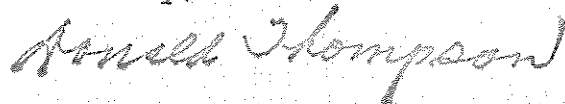
1. The petitioner, its successors or assigns shall comply with all of the stated conditions of approval.
2. The effective date of the permit shall be upon consummation of the Kona Water Source Agreement No. II and receipt of a water commitment from the Department of Water Supply.
3. Consolidation plans for the three affected parcels shall be submitted to the Planning Department within six months of the effective date of this SMA Use Permit.
4. Plans for the proposed development, including landscaping and parking, shall be submitted to the Planning Department for Plan Approval within one year from the approval date of consolidation. Further, the provision of parking stalls shall meet with the requirements of Chapter 25 (Zoning Code), Hawaii County Code.
5. Construction of the proposed development shall commence within one year from the date of receipt of final plan approval and shall be completed within two years thereafter.
6. Applicant shall submit all existing archaeological reports, including those prepared by the Bishop Museum, to the applicable County and State agencies prior to submittal of Plan Approval. An archaeologist shall be present on-site during surface and subsurface bulldozing to precisely record and remove any ancient burials or other archaeological remains and to record any new subsurface cultural deposit information. Should the construction require the removal of any recent burial sites, the State Department of Health shall be notified prior to construction and its regulations complied with.

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7. Should any unanticipated sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease immediately and the Planning Department immediately notified.
8. Water runoff generated from the proposed development shall be disposed of on-site in a manner meeting with the approval of the Department of Public Works.
9. The Ali'i Drive and Kuakini Highway frontages of the subject properties shall be improved with curbs, gutters, sidewalks, and/or other related improvements including provisions for the handicapped, meeting with the review of the Chief Engineer and approval by the Planning Director prior to the issuance of the occupancy permit.
10. The driveway access(es) from Alii Drive and Kuakini Highway shall be subject to review and approval by the Planning Department. Further, the access at Kuakini Highway shall be channelized, with the improvements conforming to requirements of the Department of Public Works.
11. All applicable rules and regulations, including those of the Department of Water Supply, the Fire Department, and the Department of Health, shall be complied with.
12. Should the Planning Department determine that any of the foregoing conditions have not been met or substantially complied with in a timely fashion, the Special Management Area Use Permit and Shoreline Setback Variance shall be void.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



Donald Thompson
Chairman, Planning Commission

cc: Mr. Homay Naraghi
DPED, CZM Program w/background
Department of Public Works
Department of Water Supply
County Real Property Tax Division
County of Hawaii, Kona Office

bcc: Plan Approval Section