

CERTIFIED MAIL

September 5, 1989

Ms. Malama Solomon  
P.O. Box 219  
Kapaau, HI 96755

Dear Ms. Solomon:

Special Management Area Use Permit Application  
TMK: 5-2-12:14

The Planning Commission at its duly held public hearing on August 28, 1989, voted to approve your amended application, Special Management Area Use Permit No. 288, to allow the construction of a 3-unit apartment building and related improvements at the northern corner of Keokea Beach Park Road and the roadway leading to the area referred to as "Stable Camp," Niulii, North Kohala, Hawaii.

Approval of this request is based on the followings:

The purpose of Chapter 205-A, Hawaii Revised Statutes (HRS), and Rule No. 9, Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect, and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for granting an SMA Use Permit is that "The development will not have any significant 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 interest." The initial request was to allow the construction of an 8-unit apartment building and related improvements on the subject property. The Department recommended denial based upon

SEP 05 1989

Ms. Malama Beamer Solomon  
September 5, 1989  
Page 2

the lack of water for the project and the improper use of a septic tank to support an 8-unit building. By letter of August 23, 1989, the applicant has revised the project to a 3-unit apartment building. According to the Department of Water Supply and the Department of Health, water commitments for a 3-unit proposal can be made available and the use of a septic tank system will meet its requirements. Therefore, the construction of a 3-unit apartment building and related improvements is not anticipated to have a significant adverse effect on the environment or its ecology. The project, which is situated approximately 1,500 feet from the shoreline, has been reduced from eight to three dwelling units in order to conform with the State Department of Health's wastewater requirements. Thus, the proposal should have negligible effects on the coastal ecosystem. The parcel has been previously improved with a store, pool hall, and residential unit that will be demolished. Thus, no endangered species of plant or animal life or significant archaeological resources will be directly impacted by the apartment improvements.

Another criteria for approving a development within the SMA is that it is consistent with the Zoning Code and General Plan. The proposed development conforms to the Village Commercial zoned district which permits multiple-residential development at a density of 1,250 square feet of land area per rentable unit. In this case, the proposed 3-unit apartment building is well within the maximum allowable density of 13 units for this parcel. The construction of three moderately-priced rental units in North Kohala supports the following goals and policies of the General Plan Housing Element:

"Encourage safe, sanitary, and livable housing.

"To attain diversity of socio-economic housing mix throughout the different parts of the County.

" . . . [A]ssure that safe, sanitary and livable housing is available to persons of all ages, income and ethnic groups and to provide a variety of choice as to location and types."

The 3-unit apartment building and related improvements will support the objectives and policies of Chapter 205A, HRS, and Rule 9 of the Planning Commission. The subject property, located at an elevation of 100 feet above mean sea level, is not

within a coastal hazard and tsunami inundation area. The project gains access off of a Government Road leading to Keokea Bay and Beach Park. No recreational resources in the area or existing public accesses to the shoreline will be affected. The project will be scaled down from its original design concept and, even as an 8-unit proposal, meets with the General Plan density standards for ground cover ratio and open space. Therefore, viewplanes are not anticipated to be adversely affected by the structure. During plans for plan approval, landscaping will be required to assure a visual and aesthetic buffer for residents as well as those using the Government Road.

Construction practices will employ methods such as watering and regulation of construction hours. These types of negative impacts will be short-term and are generally associated with construction activities.

Based on the above, it has been determined that the proposed development will not have any substantial adverse impacts on the surrounding area nor will its approval be inconsistent with the General Plan and Zoning Code or contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to Special Management Area.

Approval of this request is subject to the following conditions:

1. The applicant, its successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
2. The applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Policy" within ninety days from the date of approval of this permit.
3. Final Plan Approval for the 3-unit apartment building shall be secured from the Planning Department within one year from the effective date of this permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans, including the provision for landscaping and parking, shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Parking shall comply with the requirements of Chapter 25 (Zoning Code). No parking variance from the Code shall be applied for or granted.

Ms. Malama Beamer Solomon  
September 5, 1989  
Page 4

4. Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.
5. Access shall meet with the requirements of the Department of Public Works.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department, when it finds that sufficient mitigative measures have been taken.
7. Comply with all other applicable laws, rules, regulations, and requirements, including those of the Department of Health, the Department of Water Supply.
8. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
9. An extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors, or assigns and that are not the result of their fault or negligence; b) granting of the time extension would not be contrary to the General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) the time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year). Further, should any of the

Ms. Malama Beamer Solomon  
September 5, 1989  
Page 5

conditions not be met or substantially complied with in a timely fashion, the director may initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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

Sincerely,



Gary Mizuno  
Chairman, Planning Commission

xc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Office - Kona  
DBED, CZM Program w/background  
DLNR

bcc: Plan Approval Section