



Planning Commission

Lorraine R. Inouye
Mayor

25 Aupuni Street, Rm. 109 • Hilo, Hawaii 96720 • (808) 961-8288

CERTIFIED MAIL

August 8, 1991

James K. Schuler & Associates
c/o Jon Gomes
P.O. Box 1455
Hilo, HI 96721

Dear Mr. Gomes:

Special Management Area Use Permit Application (SMA91-8)
Applicant: James K. Schuler & Assoc./Jon Gomes & Assoc.
Request: 27-Unit Apartment Building
Tax Map Key: 2-2-53:08

The Planning Commission at its duly held public hearing on July 30, 1991, voted to approve your application, SMA Use Permit No. 316, to allow for the construction of a 27-unit apartment building and related improvements. The property is located approximately 325+ feet east of the Kilauea Avenue-Maile Street intersection and on the south side of Maile Street in the vicinity of the former Hilo Mini Golf site, Waiakea, South Hilo, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205-A, Hawaii Revised Statutes, and Rule 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 approving a development within the SMA is that it is consistent with the General Plan and Zoning Code. The proposed project does conform to the General Plan Land Use Pattern Allocation Guide Map, which designates this area for High Density Urban development. Further, the General Commercial zoning designation allows for the proposed use.

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Another criteria in reviewing an SMA Use Permit application 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. Such adverse effect shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect and elimination of planning options." The proposed development is not anticipated to have substantial adverse ecological effects. The property, which is located within an area that has been extensively developed, is not known to contain any unique ecological systems nor provide habitats for any endangered plant or animal species. No adverse impacts on air and water quality are expected to be generated by the proposed development. Air emissions generated during the construction phase can be mitigated by existing regulations.

Any potential runoff or discharge which could reach ocean or inland waters can be handled by on-site improvements. Because of the State's loan and grant to the County to assist in financing construction of Maile Street sewerage extension, the project will be hooked up to the public sewage system in 1992. This will mitigate negative impacts to the inland and coastal water quality and coastal ecosystems. In the interim, however, the applicant must apply for and secure a variance from the Department of Health pursuant to its Rules for Wastewater Systems. If the variance is denied, the project must comply with all applicable rules. Therefore, no significant adverse impact to coastal ecosystems is anticipated.

The proposed development will not affect public shoreline access or recreational areas. The project is across Maile Street from the Waiakea Pond. Therefore, no interference or interruption of these resources should be generated by the project.

Similarly, scenic and open space resources will not be significantly affected by the proposed project. The three-story building is situated within an area extensively developed with multi-story apartment buildings. Views of the Waiakea Pond complex from major roads should not be significantly affected. In order to assure that visual and open space objectives are achieved, greater setbacks than those shown on the applicant's site plan may be imposed at the time of Plan Approval.

Traffic concerns at the intersection of Maile Street and Kilauea Avenue have been the focus of considerable discussion by the Department of Public Works, Waiakea Soil Conservation Service and the Police Department. While there is a recognized existing problem with vehicles trying to enter onto Kilauea Avenue and making left turns onto Maile Street from Kilauea Avenue, the applicant proposes to restrict movements onto Kilauea Avenue to right-turns only. Public Works comments that although left turns are difficult, the congestion occurs on Maile Street and not on Kilauea Avenue. Also proposed are no-left turns from Kilauea Avenue onto Maile Street. The Department of Public Works finds that prohibiting left-turn movement on Kilauea Avenue to Maile Street will only divert traffic to the private portion of Maile Street, which is in poor condition. The Department of Public Works has not, however, recommended improvements along Maile Street. Admittedly, the construction of a 27-unit apartment building will aggravate an existing problem. However, it is felt that the provision of low-income housing will fill a "critical need" for the County. This approval will support the following goals and policies of the General Plan's Housing Element:

- Improve and maintain the quality and affordability of the existing housing stock.
- Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals.
- The County shall encourage a volume of construction and rehabilitation of housing sufficient to meet growth needs and correct existing deficiencies.
- The County shall encourage corporations and nonprofit organizations to participate in Federal programs to provide new and rehabilitated housing for low and moderate income households.
- Increase rental opportunities and choices in terms of quality, cost, amenity, style and size of housing, especially for low and moderate income households.
- The County shall work with, encourage and support the private sector in the provision of affordable housing.

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Aside from the traffic considerations, the provision of a low-income housing project at this location will be convenient and otherwise located close to public facilities and services, such as schools, parks and government buildings.

It is, therefore, determined that the provision of low-income housing will be made a condition of this approval along with appropriate mitigation measures for emergency preparedness.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall comply 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 Guidelines Policy" within ninety days from the effective date of this permit.
3. Final Plan Approval shall be secured from the Planning Department within one year from the effective date of the permit. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured. Plans shall identify structures, landscaping, and parking stalls associated with the proposed development. Additional building setbacks may be required at the time of Plan Approval.
4. Construction shall commence within one year from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.
5. 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 shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken.

6. Access from and improvements to Maile Street shall meet with the approval of the Department of Public Works.
7. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a 100% affordable housing plan for the development, which shall be consistent with the interim affordable housing policy of the County as contained in Hawaii County Housing Agency Resolution No. 65. This housing plan shall be approved by the County Housing Agency prior to commencing construction of the project (building permit). The applicant shall notify the County Housing Agency of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property, provided, however, that Petitioner may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency.
8. The development shall connect to the municipal sewage system at such time as required by the Department of Public Works in accordance with its regulations. This condition shall not preclude the applicant from securing approval from the Department of Health for an alternate system in the interim.
9. An emergency preparedness and response plan shall be reviewed and approved by the Hawaii County Civil Defense Agency prior to issuance of a certificate of occupancy.
10. Comply with all other applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire Department, Department of Water Supply and the Department of Public Works.
11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date 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.

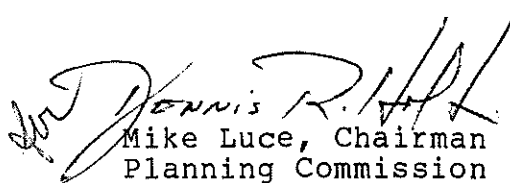
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12. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence; b) the 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 conditions not be met or substantially complied with in a timely fashion, the Director shall 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,


Mike Luce, Chairman
Planning Commission

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jdk

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
OHCD
Civil Defense Agency
OSP, CZM Program w/background
DLNR

Ecc: Plan Approval Section