

Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

CERTIFIED MAIL
P 101 317 929

DEC 20 1999

Mr. Larry Topliss
440 S. Lashley Lane
Boulder, CO 80303

Dear Mr. Topliss:

Special Management Area (SMA) Use Permit No. 300 Issued to Larry T. Topliss
Initiator: Planning Director
Subject: Revocation of Special Management Area Use Permit No. 300
Tax Map Key: 7-7-15:71 and 73

The Planning Commission at its duly held public hearing on December 2, 1999, voted to revoke Special Management Area (SMA) Use Permit No. 300 granted to Larry T. Topliss, which allowed for the construction of a commercial office complex and related improvements. The property is located in the Kona Sea View Lots Subdivision on the northeast corner of the Kuakini Highway-Seaview Circle intersection, Holualoa 4th, North Kona, Hawaii.

SMA Permit No. 300 included the following conditions:

- "2. The applicant shall secure Final Consolidation Approval of Parcels 71 and 73 within two years from the effective date of this permit.
- "3. Construction of the proposed development shall be completed (certificate of occupancy) within 5 years from the effective date of this permit."

The foregoing conditions were not met and the applicable timetables have lapsed. In the annual progress report dated May 6, 1994, the applicant stated that he did not intend to pursue this project as the commercial plan was an alternative to the residential condominium project. Therefore, SMA No. 300 is hereby revoked.

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Mr. Larry Topliss
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Should you have questions regarding the above, please contact Alice Kawaha of the Planning Department at 961-8288.

Sincerely,

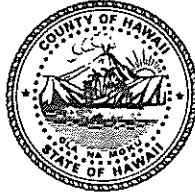


Leonard S. Tanaka, Chairman
Planning Commission

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cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Office of Planning
Department of Land and Natural Resources
Department of Health
Mr. Norman Hayashi
Mr. Jeffrey Darrow

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CERTIFIED MAIL

May 20, 1993

Mr. Larry T. Topliss
Pacific Land Company
PO Box 589
Hanapepe, HI 96716

Dear Mr. Topliss:

On Remand from the Intermediate Court of Appeals
Special Management Area (SMA) Use Permit No. 300
Applicant: Larry T. Topliss dba Pacific Land Co.
Request: Construction of a Commercial Office Complex and Related
Improvements

Tax Map Key: 7-7-15:71 & 73

The Planning Commission at its duly held public hearing on May 12, 1993, voted to approve your application, Special Management Area (SMA) Use Permit No. 300, to allow the construction of a commercial office complex and related improvements. The property is located at the northeast corner of the Kuakini Highway-Seaview Circle intersection, Kona Sea View Lots, Holualoa 4th, North Kona, 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 an 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 Special Management Area (SMA) is that it is consistent with the General Plan and Zoning Code. The proposed development conforms to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map which designates the affected area for Medium Density Urban Development. Such a designation may allow for village and neighborhood commercial uses, provided that the applicable

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Mr. Larry T. Topliss
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goals, policies and standards of the General Plan are met. The current CN-zoning of the subject property is consistent with the LUPAG Map designation for the immediate area. The proposed commercial complex would accommodate commercial, professional and government offices; uses permitted within the CN-zoned district.

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 limited to, the potential cumulative impact of individual developments, each of which taken in itself might not have a substantial adverse effect and elimination of planning options." The project site, which is currently vacant, was previously cleared of vegetation. Exotic species of flora presently occupy the site. Due to the disturbed nature of the project site, and its location within an extensively developed area, no known rare or endangered species of flora or fauna are anticipated to inhabit the site. The project site is located approximately 3,600 feet from the shoreline. Wastewater generated by the development will be accommodated within an individual wastewater treatment system. It is recommended that such a treatment system meet with the approval of the Department of Health. Runoff or discharge which could reach ocean waters can be handled by on-site improvements meeting with the approval of the Department of Public Works. Potential adverse impacts to coastal waters from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. The significant distance of the project site from coastal waters, its disturbed nature, and on-site measures to control runoff, drainage, erosion and wastewater disposal would mitigate any adverse impact to the environment or ecology of coastal areas.

The proposed development is not expected to have any adverse impact to public access to and along the shoreline as it is not located adjacent to the shoreline.

Viewplanes within the area will not be significantly affected by the proposed development. While the proposed facility will have an estimated overall height of 44 feet from its finished grade, the topography of the project site would result in an overall height of only 6 feet above the level of the Kuakini Highway.

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Due to the disturbed nature of the project site, adverse impact to historical or cultural resources are not anticipated. The Department of Land and Natural Resources-Historic Preservation Division, has concluded that the development will have "no effect" on significant historic sites.

A Traffic Assessment was prepared by the applicant and submitted a part of this application. The assessment, which was based on the availability of on-site parking for the project, concluded that no potential problem is foreseen with respect to traffic entering and exiting the project site to Sea View Circle. The assessment also concluded that the project would increase traffic volume at the Kuakini Highway-Sea View Circle intersection by an unpredictable amount. No mitigation plan was proposed. The Department of Transportation found the Traffic Assessment to be inadequate since it was based on on-site parking and not by standard trip generation methods. The Departments of Transportation and Public Works recommends that a Traffic Impact Analysis Report (TIAR) be prepared for the project. The Police Department foresees traffic congestion during peak traffic periods at the affected intersection. Testimony by area residents presented at the Planning Commission's initial August 15, 1990, public hearing on this request expressed their concerns regarding traffic along Sea View Circle and its intersection with Kuakini Highway. While there may be potential adverse impacts to traffic due to the undetermined nature of commercial uses to be established within the proposed commercial complex, no direct correlation can be found between any impacts to traffic along this portion of Kuakini Highway, Sea View Circle or its intersection and its effect on coastal areas. As previously mentioned, the project site is located approximately 3,600 feet from the shoreline. Both roadways do not provide direct access to the coastal area. Impacts to existing traffic congestion along Sea View Circle and its intersection with Kuakini Highway would not have any adverse impact to the environment or ecology of the coastal area. Therefore, no mitigative measures are recommended.

Approval of this request is subject to the following conditions:

1. The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval;
2. The applicant shall secure Final Consolidation Approval of Parcels 71 and 73 within two years from the effective date of this permit;

3. Construction of the proposed development shall be completed (certificate of occupancy) within 5 years from the effective date of this permit;
4. The applicant shall provide an individual wastewater treatment system to service the proposed development which meets with the approval of the Department of Health;
5. Should any unidentified sites or remains, such as lava tubes, artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected 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;
6. Comply with all other applicable laws, rules, regulations and requirements;
7. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this 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 and the Planning Director acknowledges that further reports are not required;
8. An initial extension of time for the performance of conditions within this 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; 2) granting of the time extension would not be contrary to the General Plan or the Zoning code; 3) granting of the time extension would not be contrary to the original reasons for the granting of the permit; 4) 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 the revocation of the permit.

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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.

Should you have any questions, please feel free to contact Rodney Nakano or Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman
Planning Commission

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xc: Honorable Stephen K. Yamashiro, Mayor
Planning Director
Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of State Planning, CZM Program w/background
Department of Land and Natural Resources
Plan Approval Section