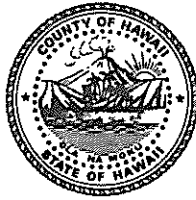


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL

P 101 317 825

JUL 2 2 1999

Mr. Edwin H. Shiroma  
1188 Bishop Street, Suite 1107  
Honolulu, HI 96813

Dear Mr. Shiroma:

Special Management Area (SMA) Use Permit (SMA 340)

Applicant: CRL Development, Inc.

Request: Revocation of SMA Use Permit No. 340

Tax Map Key: 2-6-2:1 and 2

The Planning Commission at its duly held meeting on July 16, 1999, voted to revoke Special Management Area (SMA) Use Permit No. 340, granted to CRL Development, Inc., which allowed the construction of a 24-unit condominium project and related improvements. The property is located on the north side of the Wailuku River at the corner of Puueo Street and Kou Lane, Puueo, South Hilo, Hawaii.

The applicant, in a letter dated May 14, 1999, stated that the sluggish economy and financial and related constraints prohibit the development of the proposed project. Therefore, SMA Use Permit No. 340 is hereby revoked.

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JUL 2 2 1999

Mr. Edwin H. Shiroma

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

Sincerely,

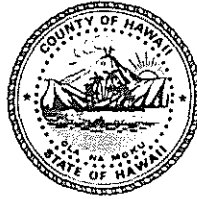


Leonard S. Tanaka, Chairman  
Planning Commission

Lqueen01.pc

cc: Department of Public Works  
Department of Water Supply  
Real Property Tax Division  
Office of Planning, CZM Program  
Department of Land and Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Mr. Norman Hayashi

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

June 7, 1993

Stephen J. Menezes, Esq.  
Menezes Tsukazaki Yeh & Moore  
100 Pauahi Street, Suite 204  
Hilo, HI 96720

Dear Mr. Menezes:

Special Management Area (SMA) Use Permit No. 340  
Applicant: CRL Development, Inc.  
Request: 24-Unit Condominium and Related Improvements  
Tax Map Key: 2-6-2:1 & 2

The Planning Commission at its duly held public hearing on May 27, 1993, voted to approve Special Management Area Use (SMA) Permit No. 340, to allow the construction of a 24-unit condominium project and related improvements. The property is located on the north side of the Wailuku River at the corner of Pueo Street and Kou Lane, 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. Although the proposed use is consistent, it should be pointed out that the complexes must meet the Zoning Code required minimum 15 feet distance between main structures. The proposed project does conform to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area for Medium Density Urban development. Further, the properties' Resort-Hotel zoning designation allows for the proposed use.

JUN - 8 1993

Stephen J. Menezes, Esq.  
June 7, 1993  
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Approval of this request would complement a goal of the Housing Element of the General Plan to "Attain a diversity of socio-economic housing mix throughout the different parts of the County" and to "Maintain a housing supply which allows for a variety of choice."

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 project site had been previously used for residential purposes and had been recently grubbed and, as such, the area 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.

A recent certified shoreline survey of the property places the certified shoreline along the property's boundary along Wailuku River. Any potential increase in runoff or discharge that could reach ocean waters can be handled by on-site improvements. Negative impacts on the local water quality resulting from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. Municipal treatment of wastewater will be required to avoid impacts to coastal ecosystems. Therefore, no significant adverse impact to coastal ecosystems is anticipated.

The proposed development is not expected to have an adverse impact on public access to or along the shoreline. Proposed complexes A and B will be situated a minimum of 40 feet from the certified shoreline along Wailuku River, southern portion of the property. Complexes C and D will be located a minimum of 20 to 40 feet from the certified shoreline along Wailuku River, eastern portion of the property. The landscaping improvements will be located outside of the 20-foot shoreline setback area. With the determination of this portion of the Wailuku River as a "shoreline", public access along the banks of the river must be preserved, particularly with the potential of future

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June 7, 1993  
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developments along the Wailuku River. Therefore, it is recommended that a shoreline access plan be submitted for review and approval prior to securing Final Plan Approval for the proposed development.

Viewplanes will not be significantly affected by the proposed project. The buildings will be situated more than 250 feet mauka of the Hawaii Belt Road. As such, the proposed project will not affect the makai views from the Hawaii Belt Road. Although the proposed project may affect mauka views from the Hawaii Belt Road, retaining some of the existing trees along the top of the bank for landscaping and the reduction of the height of the structures to 2 stories would mitigate any adverse impact.

An archaeological inventory survey of the project site identified one site (Site 15415) which consists of two components: 1) several diffuse prehistoric hearths, and 2) historic refuse and recent structural remnants. The report concluded that "The site is evaluated as significant solely for information content and is not recommended for further work." However, the Department of Land and Natural Resources-Historic Preservation Division recommends that this site be preserved until such time its significance can be determined. According to DLNR, "Sufficient level of recordation has been performed on the site's historic component which is located outside of a 40-foot setback zone at the edge of Wailuku River. The prehistoric component still contains significant information. Also, since it is contained entirely within the 40-foot setback zone, it will be preserved. We concur that this preservation will result in a 'no adverse effect' determination for this site." In addition, the DLNR found the interim (short term) preservation measures to protect the prehistoric component during construction activities to be acceptable. These measures will be included as conditions of approval which consist of the erection of construction barrier along the inland margins of the 40-foot setback area and an on-site monitoring by a qualified archaeologist during the initial phase of grading and grubbing activities along the margins of the prehistoric deposit. Also, it is recommended that the applicant prepare a mitigation plan for the review and approval of the Planning Department, in consultation with DLNR, prior to securing Final Plan Approval or the issuance of a grading permit. This will ensure that such a mitigation plan be approved by the Department prior to any land alteration activities and for the preservation and protection (interim or permanent) of Site 15415.

According to a Traffic Impact Study for the project, there would be no adverse effect on Puueo Street, the Puueo Street/Ohai Street intersection or the Puueo Street/Keawe Street intersection with Wailuku Drive. These intersections are anticipated to operate at LOS A or B with the project. However, the applicant shall provide a driveway access to Puueo Street having adequate sight distance and meeting with the approval of the Department of Public Works.

Approval of this request is subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The required water commitment payment shall be submitted 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. Consolidation of the properties shall be secured from the Planning Department prior to Final Plan Approval.
4. Final Plan Approval of the 24-unit condominium project shall be secured from the Planning Department. Plans shall identify structures, the 20-foot and 40-foot shoreline setback lines, and parking stalls associated with the proposed development. Parking shall comply with the requirements of Chapter 25 (Zoning Code). Plans shall also indicate appropriate landscaping, including the retention of some existing trees along the Wailuku River frontage.
5. Construction of the proposed condominium complexes and related improvements shall be completed and a certificate of occupancy issued within five years from the effective date of the SMA Use Permit.
6. A public shoreline access plan shall be submitted for review and approval by the Planning Department, in consultation with the Department of Land and Natural Resources, prior to the submittal of plans for Plan Approval review. The public access plan shall include, but not be limited to, the delineation of shoreline access to and along the length of the property; location, time of construction and/or availability of public accesses; restrictions on use; and other related improvements.

7. A mitigation plan shall be submitted for review and approval by the Planning Department, in consultation with the State Department of Land and Natural Resources, prior to the submittal of plans for Plan Approval review.
8. The minimum 20-foot shoreline setback shall be staked and delineated with a continuous flag ribbon by a registered surveyor prior to any land alterations in the affected area. Written confirmation shall be submitted in conjunction with requested permit(s). No improvements shall be allowed within the 20-foot shoreline setback area unless approvals have been granted in accordance with Rule 8 of the Planning Commission relating to Shoreline Setback.
9. The minimum 40-foot shoreline setback shall be staked and delineated with a continuous flag ribbon by a registered surveyor prior to any land alterations in the area of Site 15415. Construction barrier shall be erected along the inland margins of the 40-foot setback area. Written confirmation shall be submitted in conjunction with requested permit(s). To ensure the preservation of Site 15415, any improvements within this area shall be approved by the Planning Department, in consultation with the State Department of Land and Natural Resources.
10. On-site monitoring shall be conducted by a qualified archaeologist during the initial phase of grading and grubbing activities along the margins of the prehistoric deposit.
11. 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.
12. Driveway access to Puueo Street shall meet with the approval of the Department of Public Works. Appropriate signage and roadway markings shall be provided by the applicant prior to the issuance of a certificate of occupancy for the condominium complexes.
13. An erosion and sediment control plan shall meet with the approval of the Department of Public Works. The plan shall also include a provision that a minimum 20-foot wide

vegetated buffer area along the Wailuku River boundary be maintained throughout the construction period.

14. Energy efficient appliances and other energy saving devices shall be incorporated in the development's plans and requirements.
15. The applicants, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury and death arising out of any act or omission of the applicants, successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this SMA Use Permit.
16. Comply with all other laws, rules, regulations and requirements.
17. Upon compliance with all conditions of approval, in conjunction with the application for certificate of occupancy and prior to the selling and/or occupancy of any of the condominium units, the applicant shall provide, in writing, a final status report to the Planning Department.
18. An 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) 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.

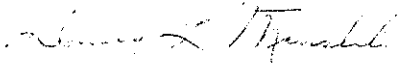
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.



Stephen J. Menezes, Esq.  
June 7, 1993  
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Should you have any questions, please feel free to contact Rodney Nakano or Alice Kawaha of the Planning Department at 961-8288.

Sincerely,



Donald L. Manalili, Chairman  
Planning Commission

RKN:jdk  
LCRLDe02.PC

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