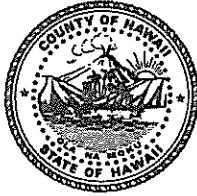


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 324 880

DEC 2 0 1999

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

Dear Mr. Topliss:

Special Management Area (SMA) Use Permit No. 346 Issued to Larry T. Topliss  
Initiator: Planning Director  
Subject: Revocation of SMA Permit No. 346  
Tax Map Key: 7-7-15:71 and 73

The Planning Commission at its duly held meeting on December 2, 1999, voted to revoke Special Management Area (SMA) Permit No. 346, granted to Larry T. Topliss, which allowed for the construction of a 12-unit condominium project 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 4<sup>th</sup>, North Kona, Hawaii.

SMA Permit No. 346 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. However, a building permit for this proposed 12-unit condominium on the subject properties shall not be approved if a building permit is secured for any approved development under SMA Use Permit No. 300. The securing of a building permit for one development shall not invalidate the other."

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DEC 2 0 1999

Mr. Larry Topliss  
Page 2

The foregoing conditions were not met and the applicable timetables have lapsed. In the annual progress report dated October 16, 1994, the applicant stated that "the current real estate market in Kailua-Kona is adverse to the financial feasibility of the project of this nature. At this date, it is impossible to forecast whether this adverse market condition will require a delay in the development of this project." In a letter dated March 1, 1999, the Planning Director requested an annual progress report on the status of the conditions of the permit. To date, there has been no response. There were no building permits issued for the project. Therefore, SMA No. 346 is hereby revoked.

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

Sincerely,

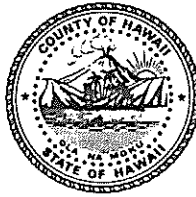


Leonard S. Tanaka, Chairman  
Planning Commission

Ltopliss01pc

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

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

November 5, 1993

Mr. Larry T. Topliss  
Pacific Land Company  
1427 Dillingham Blvd. Rm. 215  
Honolulu, HI 96817

Dear Mr. Topliss:

Special Management Area (SMA) Use Permit Application (SMA 93-2)

Applicant: Larry T. Topliss

Request: Construction of 12-Unit Condominium Complex and  
Related Improvements

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

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The Planning Commission, at its duly held public hearing on October 28, 1993, voted to approve your above-referenced application. Special Management Area Use (SMA) Permit No. 346 is hereby issued to allow for the construction of a 12-unit condominium project 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 and residential and related functions,

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Mr. Larry T. Topliss  
November 5, 1993  
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provided that the applicable goals, policies and standards of the General Plan are met. The current Neighborhood Commercial-7,500 square foot (CN-7.5) zoning of the subject property is consistent with the LUPAG Map designation for the immediate area. The proposed multi-residential building would accommodate 12 apartment units; each with 2 bedrooms and 2 bathrooms; a use which is 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, meeting 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 40 feet from its finished grade, the topography of the project site would result in an overall height of only 19 feet above the level of the Kuakini Highway.

Mr. Larry T. Topliss  
November 5, 1993  
Page 3

Due to the disturbed nature of the project site, adverse impact to historical or cultural resources are not anticipated. In addition, the Department of Land and Natural Resources-Historic Preservation Division, had no comments regarding any significant historic sites on the subject property.

A Traffic Impact Assessment Report (TIAR), although not submitted with this application, was prepared by the applicant and submitted with the previously approved SMA Use Permit No. 300. The assessment, included reference to a TIAR prepared for SMA Use Permit No. 296, also for a 12-unit condominium. No potential problems or impacts were determined in respect to traffic entering and exiting onto Sea View Circle from the subject property. However, traffic volume at Kuakini Hwy. and Sea View Circle would increase. The Police Department foresees traffic congestion at the affected intersection. Previous 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. As a result the applicant is proposing the condominium development, in response to traffic concerns expressed by area residents. While there may be potential adverse impacts to traffic due to the 12-unit condominium development, 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. However, a building permit

for this proposed 12-unit condominium on the subject properties shall not be approved if a building permit is secured for any approved development under SMA Use Permit No. 300. The securing of a building permit for one development shall invalidate the other.

4. The applicant shall provide an individual wastewater treatment system to service the proposed development meeting 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

Mr. Larry T. Topliss  
November 5, 1993  
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substantially complied with in a timely fashion, the  
Director shall initiate the revocation of 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.

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

Sincerely,



Wilton Wong, Vice Chairman  
Planning Commission

DSA:jdk  
LTopli01.PC

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  
Department of Health  
Plan Approval Section  
SMA No. 300