

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 095 324 883

JAN 07 2000

Mr. Douglas Thom, Trustee
Thom Family Trust
1280 Highway 208
Verington, NV 89447

Dear Mr. Thom:

Special Management Area (SMA) Use Permit No. 363

Applicant: Westly & Associates, Inc.

Subject: Revocation of SMA Use Permit No. 363

Tax Map Key: 2-6-16:1, 4, 5, 30, 35 and 38

The Planning Commission at its duly held meeting on December 17, 1999, voted to revoke Special Management Area (SMA) Use Permit No. 363, granted to Westly & Associates, Inc., which allowed for the development of a 10-lot residential subdivision and related improvements. The property is located between the Hawaii Belt Road and Wainaku Street, along the Hamakua side of Kalalau Stream, Wainaku, South Hilo, Hawaii.

The applicants, Westly and Associates, Inc., have not pursued the project and the landowner has changed. A letter has been received from the new landowner requesting that the SMA Use Permit No. 363 be revoked. Therefore, SMA Use Permit No. 363 is hereby revoked.

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

Sincerely,

Richard B. Baker, Jr., Chairman
Planning Commission

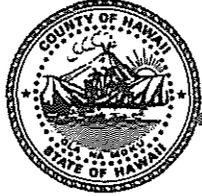
Lwestly01pc

cc: Department of Public Works
Department of Water Supply
Real Property Tax Office
Office of Planning, CZM Program
Mr. Norman Hayashi
Mr. Jeffrey Darrow

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CERTIFIED MAIL
Z 095 323 434

July 25, 1996

Brent Westly, President
Westly & Associates, Inc.
P.O. Box 667
Hilo, HI 96721

Dear Mr. Westly:

Special Management Area Use Permit Application (SMA 96-5)
Applicant: Westly & Associates, Inc.
Request: Develop a Ten-Lot Single Family Residential Subdivision
Tax Map Key: 2-6-16:1, 4, 5, 30, 35 and 38

The Planning Commission at its duly held public hearing on July 11, 1996, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 363 is hereby issued to allow the development of a 10-lot residential subdivision and related improvements. The property is located between the Hawaii Belt Road and Wainaku Street, along the north (Hamakua) side of Kalalau Stream at Wainaku, 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 an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves by dedication or other means.

The proposed project will not have any significant adverse environmental or ecological effect. The project site is situated in an area zoned Single-Family Residential (RS-10) and surrounded by existing dwellings. The proposed project is to allow for the development of a 10-lot subdivision on the subject properties. No known threatened or endangered species of flora or fauna or their special habitats are within the project area. It is expected that there will be some impacts, such as noise and dust, generated by the development during the construction phases. As such, impacts to the physical environment

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Brent Westly, President
Westly & Associates, Inc.
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within the immediate area which may be generated by the proposed project will be temporary. To minimize any adverse impacts to existing residents during the construction phases, including grubbing and grading the properties, a condition will be included to require the applicant to inform and work with the community residents to resolve any concerns regarding any work on the subject properties.

The proposed project is consistent with the objectives, policies and guidelines of the Special Management Area. These guidelines were established to provide guidance for the preservation, protection and development of coastal resources of the State and County. They identify several areas of management concerns including historic, recreational, scenic resources, coastal ecosystems, economic use and coastal hazards. The surrounding area includes existing residential development. No known presence of any significant historic or archaeological feature is situated on the project area. The property is located on the mauka side of the Hawaii Belt Road and not easily visible from the Highway. As such, the project would not interfere with any recreational resources, with the natural shoreline process nor impact viewplanes to the coastal area.

Runoff or discharge generated by the proposed project will be handled by on-site drainage improvements meeting with the approval of the Department of Public Works. A condition will be included to require the construction of a drainage ditch along portions of parcels adjacent to the Hawaii Belt Road meeting with the requirements of the Department of Transportation. In addition, although several parcels within the proposed subdivision will include portions of the gulch (Kalalau Stream), the applicant proposes not to grade along the top of the bank to the water's edge of Kalalau Stream. However, to minimize adverse impacts to the stream waters, a condition will be included to require the submittal of a Soil and Sedimentation Control Plan, should any work be conducted beyond and below the top of the bank. Potential adverse impacts to coastal waters from soil erosion and runoff during construction can be adequately mitigated through compliance with existing construction regulations. The location of the project area from coastal areas coupled with the provision of on-site drainage improvements and compliance with existing governmental regulations to control runoff, drainage and erosion would mitigate any adverse impact to the area's environment or the ecology of the area's coastal waters.

Several parcels of the proposed subdivision would include portions of the gulch and are located in Zone A, within the 100-year flood plain. As such, the applicant would be required to submit a flood study for review and approval by the Department of Public Works.

In addition, it is not anticipated that the potential economic uses of the nearby coastal areas will be adversely impacted by the proposed residential development.

The proposed project within the Special Management Area is consistent with the General Plan and Zoning Code. The proposed construction of a single-family development is consistent with the zoning for the subject area. The approval of the request would conform to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map which designates the area for Low Density Urban Development. The proposed project would complement the following goals and policies of the Land Use Element of the General Plan:

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- o The county shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.

Roads within the project site are proposed to be built to lesser than required standards of the County Subdivision Code. As such, the applicant would be required to apply for applicable variances or submit an application for a Planned Unit Development (PUD). Review of these requirements would take place during subdivision review of the proposed development.

Based on the above, the proposed project will not have any substantial adverse impacts to the subject or surrounding area and, therefore, will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the Special Management Area, the General Plan and Zoning Code of the County of Hawaii.

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, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. 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 (90) days from the effective date of this permit.
4. The applicant shall pay the required real property taxes due on the subject properties within ninety (90) days from the effective date of this permit.
5. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of this permit.
6. All grading shall meet with the approval of the Department of Public Works.
7. Should any work take place beyond and below the top edge of the bank of the stream, an Erosion and Sediment Control Plan shall be submitted for review and approval by the Department of Public Works and Health Department.
8. A Flood Study shall be completed and submitted to the Department of Public Works for review and approval prior to securing Tentative Subdivision Approval.

Brent Westly, President
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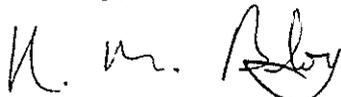
9. The applicant shall construct and maintain a cut-off drainage ditch along the portion of TMK: 2-6-16:1, 2, 3 and 4 meeting with the requirements of Department of Transportation-Highways Division.
10. The applicant shall inform and work with the surrounding residents to minimize any adverse impacts, including noise and dust, to residents from any work conducted on the subject property.
11. Comply with all applicable laws, rules, regulations and requirements of affected agencies for the project development.
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. 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 granting of the permit.
 - 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).

Should any of the 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.

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

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

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cc: Honorable Stephen K. Yamashiro, Mayor
Department of Public Works
Department of Water Supply
County Real Property Tax Division
Office of State Planning, CZM Program (w/Background)