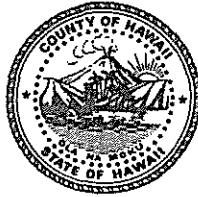


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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Steven S. C. Lim, Esq.  
Carlsmith Ball  
121 Waiianuenue Avenue  
Hilo, HI 96720

Dear Mr. Lim:

Special Management Area Use Permit Application (SMA 00-018)  
Applicant: Owners of Parcel 9  
Request: To Develop an Approximate 10-Lot Single Family Residential Subdivision  
Tax Map Key: 7-8-11:9

The Planning Commission at its duly held public hearing on November 1, 2000, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 411 is hereby issued for the development of a residential subdivision. The property is located on the south side of Kaluna Street, bounded by the Bayview Estates and Hale Kehau Condominium developments, Keauhou, North Kona, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS), and 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.

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 applicant states that: "The Keauhou Resort lands were master-planned in the 1960's and 1970's to allow for the orderly

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development of residential communities within a resort setting. Over the years, residential sales within the Keauhou Resort area have been relatively strong, due in large part to the well-planned resort-residential community environment, the range and quality of residential products being offered, and the wealth of nearby commercial and recreational amenities. The proposed Project is intended to help meet the growing demand for residential lots in the Keauhou Resort area and allow for the expansion of an existing subdivision in an orderly and cost-effective manner.

“Being adjacent to the existing Bayview Estates at Keauhou subdivision offers the Project the advantage of being close to existing infrastructure and supportive public services. The Project has also been planned with a sensitivity to the environmental and cultural considerations of the site. Development of the Project to be consistent with the existing residential subdivision with a high level of site amenities will [be] complementary to the development in the area.

“The roadway within the Project will be built to existing roadway standards, which include minimum-required pavement and right-of-way widths, curbs, gutters and sidewalk, and underground utilities such as water, sewer, electricity, telephone and cable television. The subdivision roadway will remain in private ownership, and there is a security gate at Bayview Estates entrance.

“The Project will require lot purchasers to be responsible for grading their own lots and building their own homes. The design of the homes will be monitored by a homeowner's design committee to assure quality house design and construction. Design guidelines and restrictive covenants will be used by the design committee as a basis for the design review and approval.”

The proposed development is located mauka of Ali'i Drive, approximately 1,500 feet from the shoreline. Therefore, there would be no adverse impact to recreational and visual resources, access to and along the shoreline nor coastal ecosystems. The proposed development would not impact the immediately adjacent properties. The subject property is a trapezoidal-shaped lot which consists of approximately 4.606 acres. The subject property is currently vacant and heavily vegetated. Elevations on the property range from approximately 300 feet above the mean sea level at the makai boundary to approximately 500 feet above mean sea level, with slopes averaging from 8 to 10 percent. The parcel is immediately adjacent to the proposed Bayview Estates Phase II, a 45-lot single family residential (RS-15) subdivision. This development would not impact the immediate adjacent properties as lands to the north are the 135-lot Keauhou Estates (RS-15), 58-unit The Villas (RM-3.5) and 29-unit Hale Kehau condominiums (RM-3), and to the west are lands zoned RS-7.5, RM-1, RM-3, V-4. To the north and southwest are lands zoned for single family residential. Land uses in the area include the Keauhou Estates, Hillhaven

Medical Care facility, golf course and condominiums across Kamehameha III Road; Keauhou Shopping Village and vacant lands.

The proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The Flood Insurance Rate Maps (FIRM) indicate that the property is located in Zone "X," areas outside of the 500-year flood plain. There are no significant drainageways anticipated. While there are no indications of surface water flow on-site, the applicant will abide by all applicable County guidelines for run-off generated by the development. The Department of Public Works has recommended that a drainage study be prepared for review and approval, prior to submittal of plans for subdivision review. Therefore, a condition of approval will be included to comply with this recommendation.

The Department of Health requires that underground injection systems which receive wastewater or storm run-offs from the proposed development need to address DOH requirements. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

According to the applicant's Environmental Report, the property is almost entirely covered with grass and stands of koa haole. Plant species found in the area are common, mostly alien, species: (1) trees such as kiawe, kukui, African tulip, noni and monkeypod; (2) shrubs such as koa-haole, Christmas berry, klu, castor bean and sodom apple; and (3) common herbs such as bermuda grass, spiny pigweed, four-o'clock, beggar's tick, Sacramento bur, goose grass, heliotrope, sow thistle, rattle pod, finger grass, crab grass, and sand bur. Bindweed, coccinea, and koali awahi'a represent the vine types. Of the native plant species found in the vicinity, many are weedy varieties and are able to compete in the face of disturbance or invasion of other weeds. None of the plant species are classified as rare or endangered.

According to the applicant's Environmental Report, faunal studies conducted in the project vicinity have observed no resident endemic or indigenous bird species. Species observed in the area include the Japanese White-Eye, Yellow-Billed Cardinal, Zebra Dove, Common Myna, House Sparrow, and House Finch. Mammals common to the area are Mongoose and feral cats and dogs. No endangered species were observed. The Hawaiian Hoary Bat, a species listed by both the Federal and State governments as endangered, has been observed offshore in the Kona area a number of times but its presence has not been observed or documented in or around the project site.

An archaeological inventory survey with subsurface testing report was conducted by Archaeological Consultants of the Pacific, Inc., dated July, 2000. The inventory survey states that "Two sites of significance to the interests of historic preservation, Sites 22079 and 19651, were present on the current subject property. Site 22079 consisted of twenty-six features. Based on investigations conducted at these features, it is believed that they were utilized for historic and possible pre-Contact agricultural functions which likely continued from the pre-Contact period through the post-Contact period. This site qualified to be considered significant under Criterion D (site has yielded, or is likely to yield, information important in prehistory or history). However, upon completion of the current investigations, sufficient information was obtained such that this site is now considered "no longer significant." A portion of Site 19651 was present on the subject property. One feature of this site which protrudes onto the subject property contains a historic era grave. This site qualifies to be considered significant under Criterion A (site associated with events contributing to broad patterns in history), D and E (site has cultural significance) of the National Register of Historic Places criteria (refer to Table 5). Archaeological Consultants of the Pacific, Inc., recommends that a determination be made that future construction activities would have an "adverse effect" on significant historic properties at Site 19651 under the Advisory Council Regulations, 36 CFR 800. Data Recovery and a Burial Treatment Plan is recommended for this site. Recommendations were previously made for Data Recovery at Site 19651 by Sweeney and Burtchard (1995)." In conclusion, the report states "Upon completion of the inventory survey, sufficient information has been obtained such that Site 22079 is now considered to be "no longer significant" and that future construction activities will have "no adverse effect" on significant properties at that site." Based on the information contained in the archaeological inventory survey, potential impacts to the historical and archaeological resources of the subject property will be mitigated by the developer according to the approved recommendations of the consulting archaeologist, in consultation with the Department of Land and Natural Resources-Historic Preservation Division.

The property is located mauka of Ali'i Drive approximately 1,500 feet from the shoreline and over 2,000 feet from Kuakini Highway. The project will not impact views of the shoreline from Kuakini Highway as the topography and vegetation of the property would largely screen the development from mauka to makai view. While the development will be visible from the shoreline as part of the larger regional view of the Keauhou mauka lands, it will not be easily distinguishable. The proposed development will not adversely impact any recreational, including access to and along the shoreline, or visual resources to the shoreline and coastal ecosystems.

There are no air quality monitoring stations in the West Hawaii Region. The existing noise generated in the area is coming from the vehicular traffic on Ali'i Drive, Kamehameha III Road and Kuakini Highway. The principal source of short-term air quality impacts associated with the construction of the proposed improvements is expected during construction, especially during grubbing and grading activities. Given the limited nature of the improvements, no long term air and noise quality impacts are anticipated.

The proposed development will not severely interfere with the coastal view plane. The subject property is not located within an area recognized by the General Plan as an example of natural beauty. Therefore, the proposed development will not adversely impact any scenic or open space resources to the shoreline and coastal ecosystems.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project does conform to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area for Urban Expansion and Low Density Urban Development. Urban Expansion Area allows for a mix of high density, medium density, low density, industrial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. Within areas designated for development as resorts, portions of the resort area may be included in the Urban Expansion Area. The Low Density Urban Development designation refers to single family residential in character, ancillary community and public uses and convenience type commercial uses.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate to revoke this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. The effective date of this Special Management Area Use Permit shall be the effective date of the Change of Zone ordinance. Should the SMA boundaries be amended so that the subject property is no longer within the SMA, then this permit shall be null and void.
3. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval of the Change of Zone Ordinance.
4. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
5. The applicant, its successors or assigns shall submit a Solid Waste Management Plan for the development to the Department of Public Works for review and approval. A copy of the approved Plan shall be submitted to the Planning Department prior to securing Final Subdivision Approval.
6. Sewer lines shall be installed within the development to tie in with the Heeia Wastewater Treatment Plant, meeting with the approval of the Department of Public Works and prior to the issuance of a certificate of occupancy.
7. An Archaeological Data Recovery Plan and Preservation Plan shall be submitted for the review and approval to the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD). Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites within the subject property shall be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for final subdivision approval and/or prior to any approval for any land alteration permits.

8. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
9. Comply with all applicable laws, rules, regulations and requirements of other affected agencies for approval of the proposed development within the subject property, including the Department of Health.
10. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval 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.
11. 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 applicants, its 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.
  - 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).

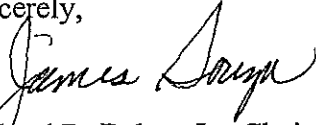
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Steven S. C. Lim, Esq.

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Should you have any questions, please contact Daryn Arai of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



*fw* Richard B. Baker, Jr., Chairman  
Planning Commission

Lownersofparcel9smaPC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
Office of Planning, CZM Program (w/Background)  
Department of Land and Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Mr. Norman Hayashi  
Mr. Jeffrey Darrow  
Subdivision Section