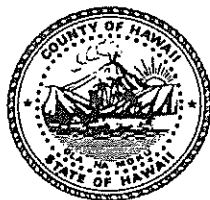


Harry Kim
Mayor



Geraldine M. Giffin
Chairperson

County of Hawaii

PLANNING COMMISSION

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CERTIFIED MAIL
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JUL 7 2002

Mr. Neil C. Erickson
40 Kamehameha Avenue
Hilo, HI 96720

Dear Mr. Erickson:

Special Management Area Use Permit Application (SMA 02-001)
Applicant: Neil C. Erickson
Request: To Allow the Development of a 19-Unit Apartment Building and
Related Improvements
Tax Map Key: 2-2-53:20 and 21

The Planning Commission at its duly held public hearing on June 7, 2002, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 423 is hereby issued to allow the development of a 19-unit apartment building and related improvements. The property borders the Waiakea Fish Pond and Puueo Poi Factory site and is located on Maile Street, approximately 400 feet north of its intersection with Kekuanaoa Street, Waiakea, South Hilo, 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 recognizes the need for additional housing within the City of Hilo and proposes to operate the multi-family

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dwelling as an apartment building. The applicant believes this property offers a unique opportunity to improve the city while addressing the need for additional housing options for the residents of Hilo.

The proposed development is located within the Hilo city limits in the vicinity of Café 100 Restaurant adjacent to Wailoa Pond. There would be no adverse impact to recreational and visual resources, access to and along the shoreline nor coastal ecosystems. The project area consists of two parcels with a total area of 52,071 square feet. Parcel 20 is approximately 15,943 square feet in size, and Parcel 21 has a land area of approximately 36,128 square feet. Parcel 20 is occupied by Puueo Pumping, Inc., which stores sewage pumping trucks, equipment and used cooking oil. A wood-framed sheet metal warehouse building and an attached shed is also located on the site. Until recently, there were several residences on Parcel 21, but all structures have been demolished. The surrounding area to the south, west and east consists of commercial and multi-family residential parcels, including the Hilo Lagoon Centre across Wailoa Pond, and the Hilo Maile Terrace, Lagoon View, and Park View apartments on Maile Street. Other establishments along Maile Street include Puueo Poi, Big Island Counter Top, and Leo's Rubbish Service. The Waiakea Villas complex abuts the eastern portion of the subject properties and the Wailoa Pond abuts the northern side of the properties. The Computer Store is located at the corner of Kekuanaoa Street and Maile Street. Café 100 is located northwest of the property, and Hawaii Motors is located to the south on lands zoned ML-20. The Hilo Shopping Center is located across the street from Hawaii Motors on Kekuanaoa Street to the south. The proposed development would not impact the immediate adjacent properties, as the area is currently in commercial or multi-family uses.

Access to the properties is from Maile Street, a private roadway (TMK 2-2-53: 19). The approximately 390-foot long portion of Maile Street connecting to Kilauea Avenue is an easement owned by the State (TMK: 2-2-29: 1). According to the State Department of Land and Natural Resources, the portion of Maile Street that intersects with Kilauea Avenue is part of the Wailoa River State Recreation Area. The applicant does not have any easement rights over that portion of the park roadway. The applicant has written to the Department of Land and Natural Resources for easement rights on this portion of Maile Street from Kilauea Avenue to the project site. The 20-foot wide pavement continues within the private 40-foot wide Maile Street for another 500± feet. From there on, the remaining portion of Maile Street extending to Kekuanaoa Street is not paved and in extremely poor condition. This portion of Maile Street is owned by several individuals.

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. According to the Department of Water Supply, water can be made available from the end of an existing 8-inch waterline in Maile Street, approximately 400 feet from the subject properties.

There is a municipal sewer system on Maile Street. A condition of approval will be included that the applicant connect to the County's sewer system. The Flood Insurance Rate Maps (FIRM) indicate that Parcel 20 is located entirely with the "floodway" of Flood Zone AE. Parcel 21 is encumbered by Flood Zone AE, AE floodway, and Zone X. Flood Zone AE is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations are determined. The floodway is the channel of the watercourse that must be reserved in order to discharge the 100-year flood without increasing the base flood elevation. The Department of Public Works recommends that all development-generated runoff be disposed of on-site and not be directed toward any adjacent properties. The Department of Public Works has also recommended that a drainage study be prepared for its review and approval. A condition of approval will be included to comply with this recommendation.

The Department of Health requires that if there is any type of process wastewater discharge from the project into State waters, the applicant may be required to apply for an individual National Pollution Discharge Elimination System (NPDES) permit with the U.S. Environmental Protection Agency. 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, the properties are overgrown with invasive and noxious plant material. There are intentionally planted areas with heliconia, banana and palm. None of these plant species are classified as rare or endangered. No endangered species or habitat is known to occur on the parcels. Significant fauna is sparse, as would be in an urban setting. Several common species of birds were observed, including the Northern Cardinal, Common Myna, House Finch and Common House Sparrow, among others. None of the species are officially listed as endangered or threatened; nor are any species proposed or a candidate for such status. The proposed project will not affect any archaeological sites, as none are known to exist in the area and the properties have been previously graded and improved.

The proposed project will not substantially affect scenic vistas and viewplanes identified in County or State plans or studies. The proposed action will not substantially affect scenic vistas or viewplanes of nearby residents and will not adversely impact any recreational or visual resources to the shoreline and coastal ecosystems. Air quality in the area of the subject properties is most affected by emissions from natural and vehicular sources. Volcanic haze is the dominant form of natural emissions, while windblown dust may also contribute to air pollution. The existing noise generated in the area comes primarily from the vehicular traffic on Kekuanaoa Street and Kilauea Avenue. The principal source of both short-term air and noise quality impacts associated with the construction of the proposed improvements is expected during construction, especially during grubbing and grading activities. These impacts can be mitigated through the

utilization of best management practices. Given the limited nature of the improvements, no significant long-term air and noise quality impacts are anticipated.

The proposed development will not severely interfere with the coastal view plane or adversely impact any scenic or open space resources to the shoreline and coastal ecosystems. No archaeological or cultural resources will be affected, as the properties have previously been graded and improved.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area for High Density Urban uses, which includes commercial, multiple residential and related services (general and office commercial; multiple residential - up to 87 units per acre). The subject properties are not located within an area recognized by the General Plan as an example of natural beauty.

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 proceedings to revoke this permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Final Consolidation Approval shall be secured prior to the construction of the two-story 19-unit apartment building and related improvements.
3. Construction of the two-story 19-unit apartment building and related improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

4. The applicant shall obtain easement rights to the State-owned portion of Maile Street so that primary access to the project is from Kilauea Avenue. If the applicant does not obtain the easement from the State, the applicant may apply to amend this condition to allow Kekuanaoa Street to be the primary access. The application to amend shall include a Traffic Impact Analysis Report (TIAR) that addresses the effects of an improved access to Kekuanaoa Street for all of the apartments in the area. Maile Street from the project site to Kekuanaoa Street shall be improved. Such improvements shall meet with the approval of the Department of Public Works. Further, all driveway connections to Maile Street shall conform to Chapter 22 (Streets and Sidewalks), Hawaii County Code.
5. A drainage study of the property, if required, shall be prepared and submitted to the Department of Public Works for review and approval prior to submittal of plans for Plan Approval review. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
6. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
7. The applicant shall connect to the existing municipal sewer line on Maile Street, meeting with the approval of the Department of Environmental Management and prior to the issuance of a Certificate of Occupancy.
8. The applicant shall provide a 10-foot wide lateral public access from Maile Street abutting the Wailoa River State Park, meeting with the approval of the Planning Director.
9. An Emergency Response Plan shall be submitted to the Hawaii County Civil Defense Agency for review and approval prior to the issuance of a Certificate of Occupancy.
10. Should any 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 mitigation measures have been taken.
11. The applicant shall comply with Chapter 27 (Flood Control), Hawaii County Code, in the construction of the project.

Mr. Neil C. Erickson
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12. Comply with all applicable laws, rules, regulations and requirements of other affected agencies including the Department of Water Supply, Fire Department and the State Department of Health.
13. 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 the extent to which the conditions of approval are being satisfied. 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.
14. 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, 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 original reasons for the granting of the permit.
 - C. 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.

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

Sincerely,


Geraldine M. Giffin, Chairman
Planning Commission

xc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources
Mr. Brian Minaai, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Plan Approval Section
Mr. Rex Andrew Ramsey, II