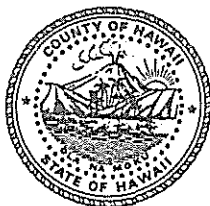


Harry Kim
Mayor



County of Hawaii
PLANNING COMMISSION

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

March 15, 2004

Mr. Steven H. Shropshire
Shropshire Group, LLC
P.O. Box 1146
Hilo, HI 96720

Dear Mr. Shropshire:

Special Management Area Use Permit Application (SMA 03-018)
Request: 25-Lot Residential Subdivision and Related Improvements
Applicant: Shropshire Group, LLC
Tax Map Key: 2-9-2:24

The Planning Commission at its duly held public hearing on March 5, 2004, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 443 is hereby issued to allow the development of a 25-lot residential subdivision and related improvements. The property is located along the east (makai) side of the Hawaii Belt Highway (State Highway 19) and at the Highway 19 – Old Government Main Road – Chin Chuck Road intersection, Hakalau Nui, South Hilo, Hawaii.

Approval of this request is based on the following:

The applicant proposes to develop a 25-lot residential subdivision and related improvements within the Special Management Area on a 12.27 acre parcel. The subdivision will consist of lots averaging approximately 20,000 square feet in size.

The proposed request 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.

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The proposed project will not create significant adverse impacts upon immediately adjacent properties, as surrounding properties are vacant or in residential or industrial uses. Lands to the north of the project area are zoned MG-5a, and consists of the abandoned Hakalau Sugar Mill complex. Further north are lands zoned A-20a. Lands to the south are zoned RS-7.5 and A-20a. Lands to the east (makai) are zoned RS-7.5 and lands to the west (mauka) are made up of approximate 10 acre lots zoned A-10a. The parcel has 25 units of water through the Wailea-Hakalau Water System Agreement.

The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as "minimal tsunami inundation." Any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements consistent with the requirements of the Department of Public Works. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations and proper construction practices.

The project will be serviced by private individual wastewater septic systems meeting the State Department of Health's Water Quality Standards. Solid waste will be collected by commercial haulers and/or disposed of at the nearest transfer station. All utilities are available to the site. Police services are located in Hilo and Pepeekeo, and fire services are available from the Central, Kaumana and Laupahoehoe Stations. Emergency services are available from the Hilo Medical Center on Waianuenue Avenue in Hilo.

Air quality in the area of the subject property is mostly affected by emissions from natural and vehicular sources. 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 and existing construction regulations. Given the limited nature of the improvements, no significant long-term air and noise quality impacts are anticipated. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon nearby coastal resources or the surrounding environment. Conditions of approval will be included relating to wastewater, solid waste and public safety to ensure that impacts on coastal resources are minimized.

The proposed project 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 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 property is located approximately 400 feet from the shoreline at its closest point, mauka of Old Mamalahoa Highway and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources located on the project site.

The property has been extensively disturbed by the past residential use. The property was formerly the "Hakalau Upper Village – Camp 1," which was utilized by management level employees of the former Hakalau Sugar Company, which subsequently became part of the Mauna Kea Sugar Company. By letter dated January 20, 2004 to Paul Rosendahl, PhD., the State Department of Land and Natural Resources-Historic Preservation Division agreed with Dr. Rosendahl that no plantation era cemeteries are present on the project site and agreed that a determination of "No Historic Properties Affected" is appropriate.

The proposed project will not substantially affect scenic vistas or viewplanes of nearby residents nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The property is located makai of the Hawaii Belt Road in Hakalau at the intersection of Hawaii Belt Road (Route 19) and Old Mamalahoa Highway. The property does not abut the shoreline. The project site is visible from the nearest public highway (Hawaii Belt Road). Presently, the shoreline is not visible from this area because large trees are blocking the viewplane (African Tulips, Silver Oaks, Ironwood and Eucalyptus). The proposed development will consist of single-family dwellings, which will have a height limit of thirty-five feet. As the project is developed, corridors may open up to allow viewplanes to the ocean from Hawaii Belt Road. Lands located on the mauka side of Hawaii Belt Road should not have their viewplane obstructed because they are located at a higher elevation and their view to the ocean should be unobstructed by the proposed subdivision. The viewplane from the shoreline towards the property will not be impacted as surrounding properties are vacant with large trees or in residential or industrial uses. Also, the proposed subdivision will not have any substantial impact on the view plane of the bay or gulch area being that there are properties between of the bay/gulch area and the proposed subdivision.

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site nor existence of any known valued cultural, historical or native resources on the project site. As the property is not associated with any archaeological or cultural resources, it is highly unlikely that either of these resources will be impacted by the proposed subdivision.

The proposed development is consistent with the County General Plan and Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for this area is Low Density Urban, Medium Density Urban and Industrial with a majority of the property in Low Density Urban. The proposed project will complement the goals, policies and standards of the Land Use (General and Single Family Residential), Economic and Housing Elements of the General Plan.

The current zoning designation for the subject property is Single-Family Residential 7,500 square feet. (RS-7.5). The proposed uses are consistent with the existing zoning.

The proposed request to allow the development of a 2 -lot residential subdivision and related improvements will not have a significant adverse impact to traditional and customary Hawaiian Rights. While the proposed development will not have a direct impact upon coastal recreational resources, review of developments within the Special Management Area must also consider the cumulative impacts of such developments upon these resources. In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed. These rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: The applicant presented the following information from which the Planning Commission can determine the valued cultural, historical, and natural resources within the area sought for Special Management Area Use Permit: The Department of Land and Natural Resources State Historic Preservation Division (SHPD) has issued a determination of "No Historic Properties Affected" letter dated January 20, 2004..

The valuable cultural, historical, and natural resources found in the Special Management Area Use permit area: There are no sites identified for preservation by SHPD for this property. The discovery of unanticipated historic sites is unlikely as the project area is the site of the former "Hakalau Upper Village – Camp 1," which was utilized by management level employees of the former Hakalau Sugar Company. According to a letter dated January 20, 2004 to Paul Rosendahl, PhD., the State Department of Land and Natural Resources-Historic Preservation Division agreed with Dr. Rosendahl that no plantation era cemeteries are present on the project site and agreed that a determination of "No Historic Properties Affected" is appropriate. The subject property once served as a camp housing for the former Hakalau Sugar Plantation and has been extensively disturbed by the past residential use. As such, no important flora or fauna resources are associated with the property.

Possible adverse effect of impairment of valued resources: The proposed project will alter the land and may cause changes to the types of vegetation, if any, on the site. However, as the SHPD has stated no historic properties will be affected by the proposed development.

Feasible actions to protect native Hawaiian rights: No valued cultural resources were identified for this site. Thus, to the extent to which traditional and customary native Hawaiian rights area exercised, the proposed action will not affect traditional Hawaiian rights.

Based on the above findings, it is determined that the proposed development and related improvements 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 foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. 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.
3. The applicant and/or lot owners shall be required to install a septic system that meets with the approval of the Department of Health prior to the issuance of a certificate of occupancy for the any proposed dwelling within the subdivision.
4. Applicant, and any private lot owners, shall obtain a NPDES permit for any land disturbance of more than one acre.
5. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties. A drainage study of the property shall be prepared and submitted to the Department of Public Works prior to submittal of plans for Final Subdivision Approval.
6. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects in the State of Hawaii.

7. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawaii County Code.
8. Direct access into the proposed subdivision from the Hawaii Belt Highway (State Highway 19) shall be prohibited.
9. 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 State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
10. Comply with all applicable laws, rules, regulations and requirements of the affected agencies, including those of the Department of Public Works and the Department of Health for the proposed development.
11. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of this permit. The report shall include, but not be limited to, the status of the development and 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 satisfied and the Planning Director acknowledges that further reports are not required.
12. An initial extension of time for the performance of conditions within this 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. 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).

Mr. Steven H. Shropshire
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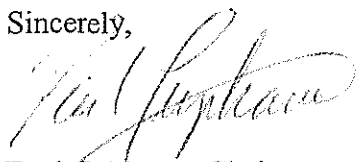
- d. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

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 Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Fred Galdones, Chairman
Planning Commission

Lshropshire01PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Department of Land and Natural Resources, HPD/Kona
Rodney Haraga, Director/DOT-Highways, Honolulu
Mr. Alice Kawaha
Mr. Robert Usagawa
Subdivision Section
Mr. William Moore