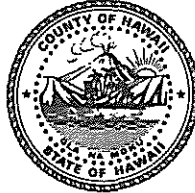


Stephen K. Yamashiro  
Mayor



Virginia Goldstein  
Director

Norman Olesen  
Deputy Director

## County of Hawaii

### PLANNING DEPARTMENT

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

CERTIFIED MAIL  
Z 416 228 757

July 5, 1995

Ms. Carla L. Bateman  
95 Kamehameha Avenue, Suite #3  
Hilo, HI 96720

Dear Ms. Bateman

Special Management Area Use Permit Assessment (SMAA)  
Application No. 95-19  
Special Management Area Minor (SMM) Permit No. 27  
Applicant: Jeff Wall  
Request: Proposed 6-lot Subdivision with Related  
Improvements  
Tax Map Key: 3-5-04: 2; Kihalani, North Hilo, Hawaii

Pursuant to the previous submittal of the above-described SMA Assessment Application No. 95-19 on May 1, 1995, and our letter to you dated May 19, 1995, we hereby issue SMA Minor Use Permit No. 27 to allow the development of a 6-lot subdivision and its related improvements on approximately 11.3 acres of land located within the County's Special Management Area.

#### GENERAL INFORMATION

- 1) **Landownership:** The proposed subdivision development will be located on an approximately 11.3 acre parcel owned by Geoffrey Wall.

#### APPLICANT'S REQUEST

- 2) **Request:** The applicant has submitted an SMA Use Permit Assessment Application for the development of a 6-lot subdivision, consisting of lots ranging in size from

approximately 30,000 to 43,560 square feet, on approximately 11.3 acres of land. The project site is located on the makai side of the Mamalahoa Highway in the immediate vicinity of Laupahoehoe Elementary and High School, Kihalani, North Hilo, Hawaii, TMK: 3-5-04: 2.

- 3) **Purpose:** According to the applicant, *"The property is owned by several separate parties who wish to sell the parcel and recoup their investment. Due to the depressed economy and sluggish real estate market, the property must be subdivided into smaller, less expensive lots."*
- 4) **Estimated Cost:** The total estimated cost for improvements associated with the proposed subdivision development is \$45,000.

#### PROJECT DESCRIPTION

- 5) **Proposed Improvements:** The proposed activity will result in the subdivision of the subject property into six parcels, five of which will have coastal boundaries along the pali. Interior access to the proposed lots will be provided by a 20-foot wide private roadway lot with a pavement width of 16 feet for a total distance of approximately 480 feet. Other improvements normally associated with the subdivision of land, such as the installation of water meters and utility lines and access and drainage improvements, will be provided.

#### STATE AND COUNTY PLANS

- 6) **The State Land Use District** classification of the subject property is Urban.
- 7) **The General Plan Land Use Pattern Allocation Guide (LUPAG)** Map designates the subject area for Medium Density Urban uses. The General Plan also recognizes Kihalani Gulch and Stream, which flows along the northwestern (Hamakua side) boundary of the subject property, as an example of natural beauty.
- 8) **Northeast Hawaii Community Development Plan** recommends the retention of the subject property's existing Single Family Residential-15,000 square feet (RS-15) designation.

- 9) **County Zoning:** The subject property is zoned Single Family Residential-15,000 square feet (RS-15) by the County.
- 10) **SMA:** The project site is located within the Special Management Area; therefore, this SMA Minor Permit is being issued in satisfaction of the requirements of the SMA. Five of the proposed six lots will have boundaries along the shoreline as well as be affected by the 40-foot shoreline setback area. While no improvements are being proposed within the shoreline setback area at this time, a shoreline setback variance will be required for any future improvements to be located within the 40-foot shoreline setback area.

**SITE DESCRIPTION**

- 11) **Physical Description:** The subject property extends from the Mamalahoa Highway to the shoreline for an average distance of approximately 530 feet. The subject property has a frontage along the Mamalahoa Highway of approximately 720 feet and a shoreline frontage of approximately 580 feet. The makai boundary of the subject property terminates at the top of a cliff located approximately 50 feet above sea level.
- 12) **Existing Uses:** According to the application, the subject property was formerly cultivated in sugar cane and is presently vacant of any uses, except for some grazing of horses. Several remnant concrete slabs are located within the property.
- 13) **Archaeological/Floral/Faunal Resources:** Due to the former use of the subject property for the cultivation of sugar cane, significant historical sites or features and the presence of endangered species of plants or animals are not anticipated to be located within the subject property.
- 14) **The Flood Insurance Rate Map (FIRM),** prepared by the Federal Emergency Management Agency (FEMA), designates the entire property as being located within an area outside of the 500-year flood plain (Zone X).

- 15) **Surrounding Uses:** As mentioned, the subject property is bordered to the southwest (mauka) by the Hawaii Belt Road and to the northeast (makai) by the sea. Remaining lands surrounding the property consist primarily of single family residential uses.

#### INFRASTRUCTURE

- 16) **Access** to the subject property is provided by the Hawaii Belt Highway and, for a short distance, an Old Government Road.
- 17) **Water, electricity, wastewater disposal and other utilities or facilities** are or will be made available to the subject property.

#### ASSESSMENT

The purpose of Chapter 205A-HRS, and Planning Commission Rule No. 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 island's coastal zone areas. Special controls on development within these areas have been enacted to prevent permanent loss of valuable resources. Upon review of the subject development, the Planning Director finds that the proposed development is consistent with State and County Special Management Area policies, as outlined below:

- a) **Recreational Resources:** The proposed development will not interfere with recreational uses of the coastal area since all improvements associated with the proposed subdivision will be located at least 300 feet from the shoreline. In addition, the physical shoreline is located approximately 50 feet below the subject property at the base of a cliff.
- b) **Historical and Natural Resources:** Due to the former use of the subject property for the cultivation of sugar cane, adverse impacts to historical or natural resources are not anticipated. Sugar cane cultivation is normally associated with extensive disruption of the land and the destruction of resident historical, floral and faunal resources. A condition will be included to require the notification of the Planning Department should archaeological sites be encountered during the course of development.

- c) **Scenic and Open Space Resources:** 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. However, Kihalani Gulch, which is located adjacent to the northwest (Hamakua side), is an area recognized by the General Plan as an example of natural beauty. Improvements associated with the subdivision of the subject property, such as roadway, drainage, and utility improvements, are primarily limited to ground-level improvements. Potential above-ground improvements, such as utility and telephones lines, may impair available coastal views from the Hawaii Belt Highway as well as impact the natural beauty of Kihalani Gulch. To ensure that these view planes are preserved, it is recommended that all utilities associated with the subdivision development be placed underground.
- d) **Coastal Ecosystems:** As previously mentioned, the proposed improvements will be limited to an area within the subject property approximately 300 feet from the edge of the coastal cliff. Prior to the issuance of Final Subdivision Approval by the Planning Department, the applicant must provide necessary drainage improvements to control all development-generated runoff in compliance with existing governmental regulations. Current construction practices are sufficient to mitigate any construction-generated runoff or erosion which may occur.
- e) **Economic Uses:** The development of the proposed subdivision will allow for the creation of additional homesites which will increase inventory and variety of homesites available to the residents of the County.
- f) **Coastal Hazards:** The entire property is located outside of the 500-year flood plain and is not affected by coastal flooding hazards. During review of the proposed subdivision plans, the applicant will be required to comply with the requirements of Chapter 27, Flood Control Code.

#### **DETERMINATION**

Based on the preceding assessment, the Planning Director has determined that development of the proposed six-lot subdivision will not be contrary to the State and county policies governing

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the Special Management Area. The Planning Director hereby approves a Special Management Area Minor Permit, **subject to the following conditions:**

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant 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 approval of this permit.
3. Final Subdivision Approval for the proposed six-lot subdivision shall be secured from the Planning Department within three years from the date of approval of this permit. The 40-foot shoreline setback line shall also be delineated on the final plat maps.
4. The minimum 40-foot shoreline setback shall be staked and delineated with a continuous flag ribbon by a registered surveyor prior to any construction or land alterations within the subject property. Written confirmation shall be submitted in conjunction with the submittal of preliminary plat maps for subdivision review. No improvements shall be allowed within the 40-foot shoreline setback area unless approvals have been granted in accordance with Rule 8 of the Planning Commission relating to Shoreline Setback.
5. All utilities associated with subdivision development shall be placed underground to minimize any adverse impact to coastal view planes and the adjoining Kihalani Gulch.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.

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7. 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 complied. 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 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 original reasons for the granting of the permit; and
  - 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).
9. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

Please feel free to contact Daryn Arai of my staff at 961-8288 should you have any questions.

Sincerely,

  
VIRGINIA GOLDSTEIN  
Planning Director

  
Chief Engineer

7/6/95  
Date

DSA:mjs

File: SMM27/LBatem01.DSA

xc: Ms. Donna Kiyosaki, Chief Engineer  
Planning Commission  
SMA Section