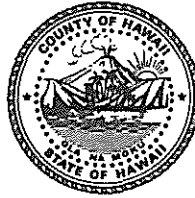


Stephen K. Yamashiro  
Mayor



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

August 3, 1995

Mr. James C. Clay  
75-5722 Kuakini Hwy, Suite 203  
Kailua-Kona, HI 96740

Dear Mr. Clay:

Special Management Area Use Permit Assessment  
Application No. 95-28  
Special Management Area Minor Use Permit No. 30 (SMM 30)  
Applicant: James C. Clay  
Request: To Allow the Construction of a Two-Story  
Commercial Office Building and Related Improvements  
Tax Map Key: 7-5-18:14, Puua 3rd, North Kona, Hawaii

Thank you for your letter dated July 11, 1995, containing a contractor's bid proposal for the construction of the proposed commercial office building and its related improvements. We were initially in receipt of the above-described Special Management Area Use Permit Assessment Application on May 17, 1995, and determined, due to the cost of the proposed commercial office building exceeding \$125,000, that an SMA Use Permit must be secured from the Planning Commission. However, based on the latest information submitted, the contractor's bid proposal indicates that the cost of the proposed development will not exceed \$125,000 in valuation and will not have an adverse impact to the coastal environment. Therefore, we are hereby issuing Special Management Area Minor Permit No. 30 to allow the construction of a two-story, commercial office building on the subject property for the reasons as detailed below:

#### GENERAL INFORMATION

- 1) **Landownership:** The subject property, consisting of approximately 10,171 square feet, is owned by the applicant.

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#### APPLICANT'S REQUEST

- 2) **Request:** The applicant has submitted an SMA Use Permit Assessment Application to allow the construction of a two-story, approximately 3,200 square-foot commercial office building on the subject property.
- 3) **Estimated Cost:** The total estimated cost for improvements associated with the construction of the proposed development and its related improvements is \$120,000.

#### PROJECT DESCRIPTION

- 4) **Proposed Improvements:** As mentioned, the applicant proposes the construction of a two-story, approximately 3,200 square-foot commercial office building on the subject property to accommodate his law practice, as well as other professional services, such as law, dental and doctor offices. According to a conceptual site plan submitted, related improvements, such as a 10-stall parking area and extensive landscaping improvements surrounding the proposed building and parking lot, will be provided.

#### STATE AND COUNTY PLANS

- 5) **The State Land Use District** classification of the subject property is Urban
- 6) **The General Plan Land Use Pattern Allocation Guide (LUPAG)** Map designates the subject area for Medium Density Urban uses.
- 7) **The Kona Regional Plan** recommends that the subject area near the intersection of Alii Drive and Walua Road be designated for Village Commercial uses.
- 8) **County Zoning:** The subject property is zoned Multiple Family Residential-1,000 square feet per unit (RM-1) by the County. To allow the proposed office use, the applicant has filed an application with the Planning Commission for a change of zone of the subject property from its current RM-1 designation to a Village Commercial-10,000 square feet (CV-10) designation. This request is currently pending before the Planning Commission.

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- 9) **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.

**SITE DESCRIPTION**

- 10) **Physical Description:** The subject property, consisting of approximately 10,171 square feet, is located between Walua Road and Alii Drive. The entire property has been altered by previous bulldozing activities and its improvement as a residential homesite. The subject property is located approximately 480 feet from the nearest shoreline.
- 11) **Existing Uses:** According to the application and Real Property Tax Division records, an existing single family dwelling is located within the subject property. The existing dwelling, approximately 40 years old, will be demolished to accommodate the proposed development. By letter to the applicant dated July 5, 1995, the Planning Director determined that the demolition of the existing dwelling is exempt from further review under the Special Management Area pursuant to Section 9-4(10)(B)(vii) of Rule No. 9 of the Planning Commission.
- 12) **Archaeological/Floral/Faunal Resources:** Due to the former use of the subject property as a residential homesite and the extensive alteration of the project site by previous bulldozing activities, 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.
- 13) **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).
- 14) **Surrounding Uses:** Land uses adjacent to the subject property consist of a restaurant to the north on lands zoned Resort (V-.75) and vacant lands to the south and west on lands zoned Multiple Family Residential (RM-1). In the immediate vicinity of the subject property are various resort, multiple-family residential and commercial uses on lands zoned Resort (V-.75), Single Family Residential (RS-10), Village Commercial (CV-10) and RM-1.

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#### **INFRASTRUCTURE**

- 15) Access to the subject property is provided by Walua Road.
- 16) 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 construction of a two-story commercial office building and its related improvement on the subject property are 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 construction of the professional office building will be located at least 480 feet from the shoreline on the mauka side of Alii Drive.
- b) **Historical and Natural Resources:** Extensive physical alteration of the subject property due to its former use as a residential homesite would conclude that adverse impacts to historical or natural resources is not anticipated. Nevertheless, 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. In addition, the property is located mauka of a major coastal roadway, Alii Drive. Therefore, makai views from Alii Drive will not be impaired.

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- d) **Coastal Ecosystems:** As previously mentioned, the proposed development will be located approximately 480 feet from the shoreline. This distance, and the presence of other intensive urban uses makai of the subject property, would demonstrate that the development of this particular parcel of land will not adversely impact coastal ecosystems. Current construction practices are sufficient to mitigate any construction-generated runoff or erosion which may occur. The Department of Public Works will require the proposed development to dispose of water run-off generated by the proposed development within drainage systems to be located within the subject property.
- e) **Economic Uses:** The development of the proposed commercial office building will economically benefit the construction industry as well as increase the County's inventory of commercial office space. The economic benefits to be gained with the approval of this proposed development will far outweigh the minimal impacts, if any, to the coastal ecosystem which may be generated by this development.
- f) **Coastal Hazards:** The entire property is located outside of the 500-year flood plain and is not affected by coastal flooding hazards.

#### **DETERMINATION**

Based on the preceding assessment, the Planning Director has determined that construction of a two-story professional office building on the subject property will not be contrary to the State and county policies governing 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.

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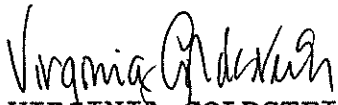
August 3, 1995

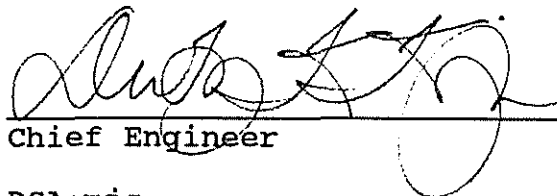
3. Final Plan Approval for the proposed commercial office building shall be secured from the Planning Department.
4. Construction of the commercial office building shall be completed within five (5) years from the date of issuance of this SMA Minor Permit.
5. Should any unidentified sites or remains 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.
6. 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.
7. 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).
8. 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.

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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

8/9/95  
\_\_\_\_\_  
Date

DSA:mjs  
File: SMM30  
SMM30.dsa

xc: Ms. Donna Kiyosaki, Chief Engineer  
West Hawaii Office w/copy of SMAA  
SMA Section  
Plan Approval Section (TMK file)  
REZ 95-15