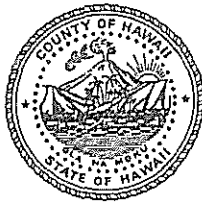


Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

September 22, 2004

Steven S. C. Lim, Esq.
Carlsmith Ball LLP
P.O. Box 686
Hilo, Hawaii 96721-0686

Dear Mr. Lim:

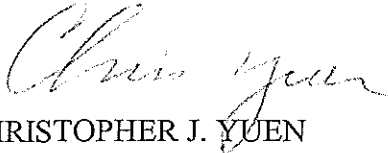
Special Management Area Use Permit Assessment Application (SMAA 04-75)
Special Management Area (SMA) Minor Permit No. 165 (SMM 165)
Applicant: Jim Edmonds and Harvest Edmonds
Landowners: Jim Edmonds and Harvest Edmonds
Project: Seven (7)-Lot Subdivision & Related Improvements
Tax Map Key: (3) 3-5-008:019

By this letter we are transmitting the referenced SMA Minor Permit No. 165, which is approved, subject to conditions, for the seven-lot subdivision (SUB 99-129) of the subject property that received Tentative Approval on March 20, 2000.

Steven S. C. Lim, Esq.
Carlsmith Ball LLP
Page 2
September 22, 2004

Should you have questions, please feel welcome to contact Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,



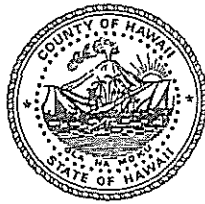
CHRISTOPHER J. YUEN
Planning Director

LMB:cd
P:\WPWIN60\CZM\SMM\2004\SMM165 Edmonds ltr.doc

Encl: SMM 165

xc: Ms. Susan Gagorik – Long Range Planning
SUB 99-129

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

Special Management Area Minor Permit No. 165

Project: Seven (7)-Lot Subdivision and Related Improvements
Applicant: Jim Edmonds and Harvest Edmonds
Land Owner: Jim Edmonds and Harvest Edmonds
Location: Papaaloa, North Hilo, Island & County of Hawaii, Hawaii
TMK: (3) 3-5-008:019 Lot 1

Applicant's Request

1. Project Description:

The applicant proposes to subdivide the subject property into seven lots ranging in size from 21,961 square feet to 75,871 square feet plus one road lot containing 17,353 square feet. Improvements required in connection with the proposed subdivision include the construction of the 50-foot wide Road Lot A, a water system meeting with the approval of the Department of Water Supply, and street lighting.

2. Purpose of Project:

The project is intended create additional lots for single-family residential use.

3. Project Valuation: \$114,900.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(iii) relating to the Special Management Area, the change in the density or intensity of use of land, including but not limited to the division or subdivision of land, is defined as "development." Therefore, the proposed seven-lot subdivision and related improvements requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Urban by the State Land Use (SLU) Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates various portions of the subject property for Open and Intensive Agricultural uses.
3. **County Zoning:** The subject property is zoned Single-Family Residential (RS-15) and General Industrial (MG-1a) by the County of Hawaii.
4. **Special Management Area:** The subject property is located in the SMA.

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- ☒ 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 the elimination of planning options.
- ☒ The proposed development is consistent with the Hawaii County General Plan and the Zoning Code.
- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - ☒ Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.

- ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
- ☒ Stimulate public awareness, education, and participation in coastal management.
- ☒ Protect beaches for public use and recreation.
- ☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:
 - ☒ Recreational Resources
 - ☒ Historic Resources
 - ☒ Scenic and Open Space Resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
 - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, regarding Environmental Impact Statements.

Findings

As discussed above, the proposed 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.

The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$114,900 is not in excess of \$125,000.

The Department of Public Works – Engineering Division submitted the following comments regarding the subject application.

"We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated May 20, 2004 and have no objections to the request."

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."

The owner shall meet the conditions of the subdivision's Tentative Approval letter dated March 20, 2000.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 165** is hereby approved to allow the subdivision of the subject property into seven (7) lots, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 165 subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. All construction activities in connection with this project shall be completed within two (2) years from the date of approval of this permit. The applicant shall immediately notify the Planning Department, in writing, upon the completion of the construction activities.
3. The applicants shall develop a public access plan for the subject property that provides, at a minimum, a continuous traversable public access easement between Old Mamalahoa Highway and the shoreline through Kaiwilahilahi Gulch. This public access plan shall be submitted to the Planning Director for approval not more than one year after the granting of this permit. Approval of the public access plan shall be required prior to granting of final approval of the proposed subdivision.
4. According to applicable Planning Department records, most notably the subdivision (SUB 6565) that created Lot 1, which was approved on March 30, 1995, the makai lot lines of Lot 1 follow along the top of the pali. The preliminary plat map granted tentative approval for SUB 99-129 does not reference the top of the pali or the shoreline. Therefore, the final plat map for SUB 99-129 shall show the top of the pali or a certified shoreline survey shall be required prior to granting of final approval.
5. In the absence of a certified shoreline survey, the top of the pali shall be regarded as the shoreline and a 40-foot shoreline setback area shall be staked along its length makai of Lots 1-B, 1-C, and 1-F.
6. Prior to commencing any construction or land altering activities a construction barrier, meeting with the approval of the Planning Department, shall be erected along the 40-foot shoreline setback line makai of Lots 1-B, 1-C, and 1-F. This barrier shall remain in place until all construction required for final approval of SUB-99-129 has been completed and signed off by the appropriate

departments and written approval for its removal has been secured from the Planning Department.

7. No construction activities, land alteration activities, or storage of equipment or construction materials shall be permitted within any portion of the shoreline setback area of the subject property. The shoreline setback area shall be kept clear of all rubbish and construction debris at all times.
8. The applicant shall comply with all applicable requirements of the State of Hawaii-Department of Health and the Hawaii County-Department of Public Works and applicable requirements of other affected agencies.
9. Future development of the proposed lots shall be subject to review against the SMA guidelines as such plans are implemented.
10. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance form the State Historic Preservation Division of the Department of Land and Natural Resources.
11. An extension of time for the performance of the conditions contained herein 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 of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
12. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

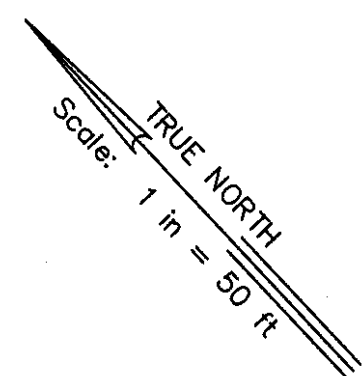
APPROVED:



CHRISTOPHER J. YUEN
Planning Director

September 22, 2004

Date

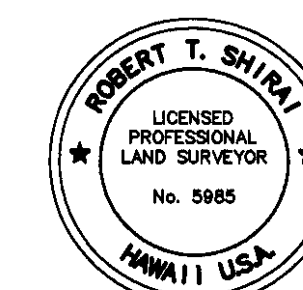
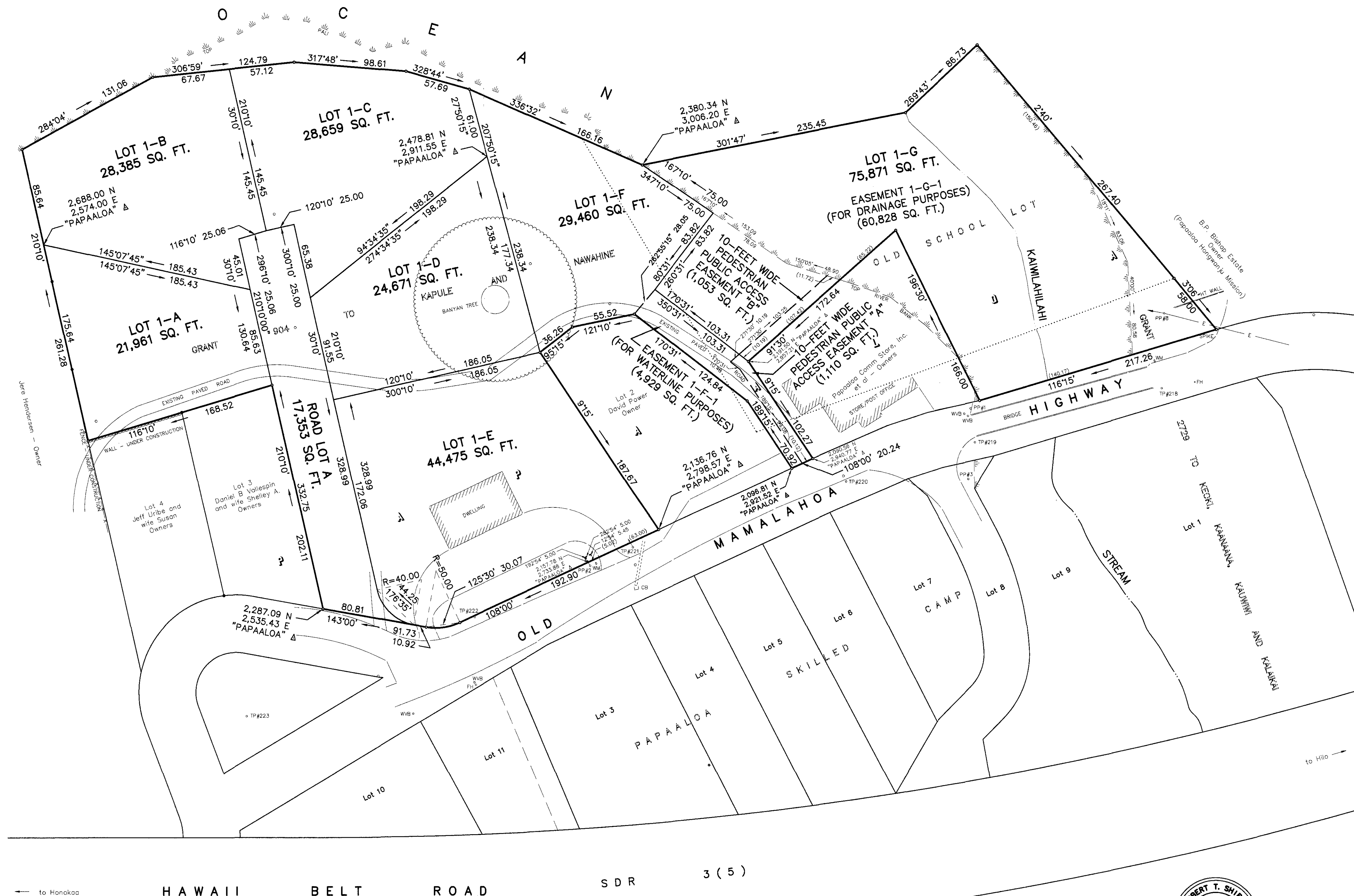


OWNER: JAMES B. EDMONDS AND WIFE
HARVEST C.
P.O. Box 42
Papaaloa, Hawaii 96780

SUBDIVISION NUMBER **SUB-99-000129**
APPROVED FOR RECORDATION with the Bureau of
Conveyances, State of Hawaii
[Signature]
Planning Director, County of Hawaii
NOV 01 2005

PLAN SHOWING
SUBDIVISION OF LOT 1
BEING PORTIONS OF "OLD SCHOOL LOT",
GRANT 904 TO KAPULE AND NAWAHINE AND
GRANT 2729 TO KEOKI, KAANAANA, KAUWII AND KALAIKAI
INTO LOTS 1-A TO 1-G, INCLUSIVE
AND ROAD LOT A
AND THE DESIGNATION OF EASEMENT 1-F-1
(FOR WATERLINE PURPOSES),
EASEMENT 1-G-1 (FOR DRAINAGE PURPOSES) AND
10-FOOT WIDE PEDESTRIAN PUBLIC ACCESS
EASEMENTS "A" AND "B"
(FOR PEDESTRIAN PUBLIC ACCESS PURPOSES)
PAPAALOA, NORTH HILO, ISLAND OF HAWAII, HAWAII

Survey and Plan by Island Survey, Inc.
P.O. Box 4215, Hilo, Hawaii 96720
May 23, 2000
Revised March 13, 2001
Revised September 19, 2002
Revised October 16, 2002
Revised December 9, 2005
Revised August 23, 2006



This work was prepared by me
or under my supervision.

[Signature]
ROBERT T. SHIRAI, PLS
State of Hawaii Cert. No. LS-5985
License Expires April 30, 2008