

January 19, 1982

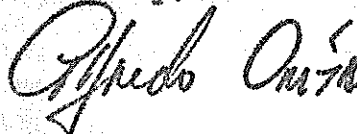
Mr. Charles Chamberland
850 Dreier Street
Honolulu, HI 96813

Dear Mr. Chamberland:

SMA Use Permit No. 115
PDP Permit No. 26
~~Shoreline Setback Variance Permit No. 596~~
Tax Map Key 7-5-09:31

The Planning Commission at its regular meeting on January 14, 1982, voted to nullify SMA Use Permit No. 115, PDP Permit No. 26, and Shoreline Setback Variance No. 596 which allowed the development of a 60-unit condominium project and related improvements, including certain activities within the shoreline setback area, at Mienaloli, North Kona, Hawaii.

Sincerely,



ALFREDO ORITA
CHAIRMAN, PLANNING COMMISSION

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cc: Building Division, Public Works
Kona Services Office

NULLIFICATION: SPECIAL MANAGEMENT AREA (SMA) USE PERMIT NO. 115,
PLANNED DEVELOPMENT PERMIT (PDP) NO. 26, SHORELINE SETBACK VARIANCE
NO. 596

The Planning Director is initiating the nullification of Special Management Area (SMA) Use Permit No. 115, Planned Development Permit No. 26, and Shoreline Setback Variance No. 596 issued to Charles Chamberland. The permits allowed the development of a 60-unit condominium project and related improvements, including certain activities within the shoreline setback area. The area involved is located along the mauka side of Alii Drive and across Oneo Bay, Kailua Village, Hienaloli, North Kona, TMK: 7-5-09:31.

The SMA, PDP, and Shoreline Setback Variance Permits were originally approved by the Planning Commission on October 30, 1979.

Condition No. 1 of Special Management Area (SMA) Use Permit No. 115 stated, "That the petitioner or his authorized representative shall submit plans and receive final plan approval within one (1) year from the effective date of the Special Management Area (SMA) Use Permit.

The Planning Commission granted a one (1) year time extension for the subject condition at its meeting of November 30, 1980. The extension was granted as a result of the unanticipated discovery of archaeological features which were generally in an excellent state of preservation. Additional time was required to develop a final mitigation plan for the feature.

Subsequently, the petitioner applied for another time extension citing financial difficulties in support of the request. The review of the time extension request showed that the water commitment for the development had lapsed and thus no water would be available to service the proposed units. The Planning Commission voted to deny the time extension request at their October 29, 1981, meeting.

Due to the denial of the time extension request and the petitioner's failure to comply with Condition No. 1 of Special Management Area (SMA) Use Permit No. 115 the Planning Director is initiating the nullification of the affected permits. The proposed nullification is based on the following findings:

The Special Management Area (SMA) Use Permit for this development was originally approved on October 30, 1979. Since that time the petitioner has revised the original development plans and has had archaeological work performed. Preliminary Plan Approval was granted on August 5, 1980, but to date no final Plan Approval has been issued. While the work regarding the historic sites on the property is acknowledged, the two (2) years which have elapsed have been an adequate and reasonable time period for final Plan Approval to be secured.

In view of the non-availability of water, the continuance of the permits would be contrary to the intent of the General Plan Multiple Family Residential policy which states, "Appropriately zoned lands shall be allocated as the demand for multiple residential dwellings increases. These areas shall be

allocated with respect to places of employment, shopping facilities, educational, recreational and cultural facilities, and public facilities and utilities" (emphasis added). While the policy cited is directed toward the Zoning issues, the purpose and intent of the policy would be equally and more immediately applicable to subsequent approvals such as SMA and PDP permits. Based on this it is concluded that approval of the request would be contrary to the above-cited General Plan policy.

Based on these considerations, staff recommends that the subject permits be nullified.