



**COUNTY OF MAUI
DEPARTMENT OF PLANNING**

250 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793

September 22, 1997

Mr. Christopher Hart
Chris Hart and Partners
1955 Main Street, Suite 200
Wailuku, Hawaii 96793-1706

Dear Mr. Hart:

RE: Christopher Hart on Behalf of Mr. and Mrs. David Ihle, To Obtain A Shoreline Setback Variance For The Proposed Improvements For A Four-Foot Deep Wading Pool; Limestone Pavers; Plantings; A Three-Foot High by Five and One-Half Foot Long Wall; And An After-The-Fact Construction of A Wall Within the 25-Foot Shoreline Setback Area on Approximately 7,174 Sq. Ft. of Land at 1037 Front Street, at TMK: 4-5-003:024, Lahaina, Island of Maui, Hawaii (SSV 970001)

At its regular meetings on August 12, 1997 and August 26, 1997, the Maui Planning Commission reviewed the above request and after due deliberation, voted to grant approval, subject to the following conditions:

STANDARD CONDITIONS OF APPROVAL:

1. That full compliance with all applicable governmental requirements shall be rendered.
2. That the conditions of this Shoreline Setback Variance shall be self-enforcing and, accordingly, upon due notice by the Maui Planning Department (Department) to the permit holder and the Maui Planning Commission that there is prima facie evidence that a breach has occurred, the permit shall be automatically suspended pending a hearing on the continuity of such Shoreline Setback Variance, provided that written request for such a hearing is filed with the Department within ten (10) days of the date of receipt of such notice of alleged breach. If no request for hearing is filed within said ten (10) day period, the Maui Planning Commission may revoke said Shoreline Setback Variance.

3. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Shoreline Setback Variance and shall defend, indemnify and hold the County of Maui harmless from and against any loss, liability, claim or demand arising out of this permit.
4. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to soil erosion from wind and water, ambient noise levels and traffic disruptions. Precautions shall be taken to prevent eroded soils, construction debris and other contaminants from excessively entering the coastal waters.
5. That no construction, operation of equipment, storage of materials, excavation or deposition of soil or other materials shall occur seaward of the certified shoreline dated February 28, 1996, unless approval is granted by the Department of Land and Natural Resources and the U. S. Army Corps of Engineers.
6. That construction of the proposed project shall be initiated by August 31, 1998. Further, initiation of construction shall be determined as construction of issuance of a building permit and initiation of building construction. Failure to comply will automatically terminate Shoreline Setback Variance unless a time extension is requested no later than ninety (90) days prior to the expiration of said permit.
7. That the construction of the project shall be completed within one (1) year after the date of initiation. Failure to complete construction of this project will automatically terminate the subject Shoreline Setback Variance unless a time extension is requested no later than ninety (90) days prior to the expiration of said permit.
8. That final construction shall be in accordance with preliminary architectural and engineering plans dated August 28, 1996, and shown as Exhibit Nos. 5, 6, and 7 of the Maui Planning Department's Report, for the Maui Planning Commission meeting of August 12, 1997.

9. That the applicant shall submit to the Maui Planning Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject Shoreline Setback Variance. A preliminary report shall be reviewed and approved by the Maui Planning Department prior to issuance of the grading permit. A final compliance report shall be submitted to the Maui Planning Department for review and approval within sixty (60) days of completion of construction.
10. That the subject Shoreline Setback Variance shall not be transferred without the prior written approval of the Maui Planning Commission. However, in the event that a contested case hearing preceded issuance of said Shoreline Setback Variance, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

SPECIAL CONDITIONS:

11. That the Applicant raise the pool elevation by approximately two (2) feet in order to limit ground alteration work to approximately three (3) feet below grade; however, should the proposed improvements require ground-alteration work that extends beneath the modern fill layer said to cover much of the subject parcel, the applicant shall have a qualified archaeologist conduct on-site monitoring of all ground-alteration work. Prior to beginning such work, an acceptable monitoring plan shall be prepared and submitted to the State Historic Preservation Division for review and approval. When the archaeological monitoring is concluded, a report of the activities and findings shall be submitted to the State Historic Preservation Division for review and approval no later than one hundred eighty (180) days after the completion of field work.
12. That the Applicant shall comply with the recommendations of the Board of Water Supply to conserve water and protect the water resources during construction and adopt construction-related best management practices (BMPs).

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13. That the Applicant shall comply with the requirements of the Department of Public Works and Waste Management and shall not discharge wading pool water into the County wastewater system.
14. That the Applicant shall comply with the requirements of the State Department of Health to minimize construction erosion and noise and shall not dispose of backwash water from the pool into the ocean.
15. That the Applicant shall comply with the requirements of the Department of Land and Natural Resources and shall not exceed beyond the makai area of the certified shoreline.

Enclosed for your information is a copy of the Maui Planning Department's Report and Recommendation Memorandum dated August 12, 1997.

Thank you for your cooperation. If additional clarification is required, please contact Ms. Julie Higa, Staff Planner, of this office at 243-7735.

Very truly yours,

Lisa M. Nuyen
DAVID W. BLANE
Director of Planning

DWB:JMH:ghk

Enclosures

c: Lisa Nuyen, Deputy Planning Director
Clayton Yoshida, AICP, Planning Program Administrator
Julie Higa, Staff Planner
State Department of Health, Honolulu (w/enclosures)
State Department of Health, Maui (w/enclosures)
State Department of Health, Lahaina Comprehensive Health Center
(w/enclosures)
Department of Land and Natural Resources (w/enclosures)
Department of Land and Natural Resources, Historic Preservation Division
(w/enclosures)