

County of Hawai'i

PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

October 17, 2005

Mr. Sidney Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Amendment to Special Management Area Use Permit (SMA 201)
Request: Allow Development of Undeveloped Properties with Uses
Allowed in the MCX Zone
Applicant: Queen Liliuokalani Trust
Tax Map Key: 7-4-8:portion of 2, 68-70

The Planning Commission at its duly held public hearing on September 30, 2005, voted to approve the above-referenced request to amend Special Management Area Use Permit No. 201 by changing the request from a 76-lot Industrial Subdivision to an Industrial-Commercial Mixed Use Subdivision. The request would allow the undeveloped properties to be developed with uses permitted in the Industrial-Commercial Mixed (MCX) district. The area involved is referred to as the "Makalapua Business Center" and is located north of the existing Kona Industrial Subdivision and makai of Queen Kaahumanu Highway, Kailua-Kona, Keahuolu, North Kona, Hawaii.

Approval of this request is based on the following:

The applicant is requesting to amend SMA Use Permit No. 201 by changing the request from a 76-lot Industrial Subdivision to an Industrial-Commercial Mixed Use Subdivision. This will allow the development of undeveloped properties with uses permitted in the Industrial-Commercial Mixed (MCX) zoned district. SMA Use Permit No. 201 was originally approved to allow a 76-lot Industrial Subdivision, which allowed uses permitted in the Limited Industrial (ML) zoning. The area covered by SMA Use Permit No. 201 was later rezoned from Limited Industrial (ML-1a) to Industrial-Commercial Mixed (MCX-20). The MCX zoned district allows different and expanded commercial uses than those uses allowed previously within the ML zoned district. The applicant has submitted the amendment request to avoid possible use conflicts in the future.

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The reasons given for the approval of the 76-lot Industrial Subdivision still apply for the approval of this amendment request to allow an Industrial-Commercial Mixed Use Subdivision within the Special Management Area.

The amendment request to allow an Industrial-Commercial Mixed Use Subdivision will not have a 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. Special Management Area Use Permit No. 201 was originally approved to allow the subdivision of the project area into seventy-six (76) 1- and 2-acre sized industrial lots and related improvements, including roadway, water, sewer, power and telephone utilities, and landscaping work. There are no coastal ecosystems present on the subject site and there are no shoreline parcels. The amendment request will not have a significant adverse effect on the coastal zone's ecology and environment. The properties will be required to connect to the public sewer system, avoiding impacts to coastal water quality. The traffic generated by the request will not be such as to create a substantial adverse impact to the Special Management Area. As a condition of approval, the applicant will be required to comply with all conditions listed within Change of Zone Ordinance No. 01-65. Therefore, there will be no substantial adverse cumulative impacts that will result from the approval of the request, as this is a minor change to the previous approval for the overall industrial subdivision.

The amendment request is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. The purpose of Chapter 205A, Hawaii Revised Statutes and Rule 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 coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves by dedication or other means.

The request is consistent with the Coastal Zone Management ("CZM") program's objectives, policies and guidelines as contained in Chapter 205A-2, HRS, and the guidelines set forth in Rule 9-7, Planning Commission Rules, relating to the Special Management Area.

The subject properties are not shoreline parcels and, therefore, there are no requirements to attach regarding shoreline access. Further, there are no resources associated with the proposed request that will deter from any coastal recreation opportunities. The CZM historic resources objectives and policies provide for the protection of significant archaeological and historical resources through their

preservation or through information retention. An archaeological inventory survey has been completed for the subject property and a burial treatment plan/archaeological mitigation plan has been submitted and approved. As such, there should be no historic or cultural impacts associated by the proposed request.

The amendment request is consistent with the County General Plan and Zoning Code. The request conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates this area as Industrial and Urban Expansion Area. The Industrial designation allows uses such as manufacturing and processing, wholesaling, large storage and transportation facilities, light industrial and industrial-commercial uses. The Urban Expansion Area designation allows for a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined. The amendment request to allow the development of undeveloped properties with uses permitted in the Industrial-Commercial Mixed (MCX) zoned district is consistent with the General Plan.

The project area is zoned Industrial-Commercial Mixed (MCX-20). Therefore, the amendment request is consistent with the Zoning Code, which allows for industrial-commercial mixed uses.

The amendment request will not have a significant adverse impact to traditional and customary Hawaiian rights: In view of the Hawaii State Supreme Court's "PASH" and "*Ka Pa 'akai O Ka 'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed. These rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: The following surveys and plans have been previously conducted and submitted to determine the valued cultural, historical, and natural resources within the area sought for Special Management Area Use Permit:

- A Survey of Avifauna and Feral Mammals conducted by Philip Bruner in 1989.
- A Botanical Survey of the project area performed by Char and Associates in February of 1999.
- An Archaeological Inventory Survey conducted by Paul H. Rosendahl, Ph.D. in 1993.
- The submission of a burial treatment plan/archaeological mitigation plan for a burial site (PHRI Site No. 18511), which was referred to the Hawaii

Island Burial Council for determination. The Council notified the petitioner that the burial site was to be preserved in place with a 30-foot buffer zone. DLNR-SHPD indicated its acceptance of the Council's recommendation for a 30-foot buffer zone within its December 21, 1993 and September 3, 2002 letters.

The valuable cultural, historical, and natural resources found in the permit area: The Archaeological Inventory Survey identified 18 sites within the previous 100-acre project area. Of these sites, no further work was deemed necessary at 12 of the sites and further data collection was recommended for 4 sites. One site, a section of the Mamalahoa Trail (PHRI Site No. 00002), was assessed as significant and recommended for further data collection followed by preservation with interpretative development. However, this was later reclassified to data recovery only. The remaining site, a burial (PHRI Site No. 18511), was assessed as significant and recommended for provisional data collection and preservation "as is." Subsequently, the burial site was referred to the Hawaii Island Burial Council for determination. Following the submission of a burial treatment plan/archaeological mitigation plan, the Council notified the petitioner that the burial site was to be preserved in place with a 30-foot buffer zone. In its December 21, 1993 and September 3, 2002 letters, DLNR-SHPD indicated its acceptance of the Council's recommendation for a 30-foot buffer zone.

Possible adverse effect or impairment of valued resources: Mitigation measures have been completed, which has mitigated any possible effects or impairment of valued resources.

Feasible actions to protect native Hawaiian rights: There has been no information submitted claiming that native Hawaiians have used the subject properties or immediate surrounding area in the recent past for the gathering of plants.

Based on the above findings, it is determined that the amendment request will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of the amendment request is subject to the following changes to conditions (new material is underscored, deleted material is bracketed):

1. ~~[The SMA Use Permit shall not become effective until after the change of zone application of the property has been adopted.]~~
2. ~~The petitioner, successors or assigns shall be responsible for complying with all of the stated conditions of approval.~~

3. ~~An overall landscaping master plan, which includes landscaping along the property's frontages along Queen Kaahumanu Highway and the Old Airport Road, a plant species list; and identification of view corridors from within and outside of the subdivision, and a program for its maintenance; shall be submitted to the Planning Director for review and approval prior to issuance of final subdivision approval of the first increment.~~
4. ~~Channelized intersection improvements shall be provided at the Queen Kaahumanu Highway meeting with the approval of the State Department of Transportation, Highways Division. Further, only one access shall be permitted from Queen Kaahumanu Highway. The intersection improvements shall be constructed prior to or as part of the final subdivision approval of the first increment.~~
5. ~~Access(es) from the Old Airport Road shall meet with the approval of the Department of Public Works.~~
6. ~~No direct accesses to the lots shall be allowed from the Queen Kaahumanu Highway and the Old Airport Road.~~
7. ~~All interior roadways shall be constructed in accordance with the requirements of the Department of Public Works.~~
8. ~~A drainage system in accordance with the requirements of the Department of Public Works shall be installed.~~
9. ~~Prior to receipt of final subdivision approval, a Development Design Manual shall be prepared and submitted to the Planning Department for approval. The purpose of the manual is to provide comprehensive design principles and guidelines for the development of the industrial lots in order to achieve a high standard of quality for the development. The manual shall include, but not be limited to, standards and guidelines relative to landscaping, open space, architectural building controls, (appearance, siting, heights, building materials, signs, etc.), setbacks from the property lines and buildings, ground cover ratio, etc.~~
10. ~~The method of sewage disposal shall meet with the approval of the appropriate governmental agencies.~~
11. ~~A intensive archaeological survey for the property shall be conducted and that the survey report shall be submitted to the Planning Department and the State Department of Land and Natural Resources prior to receipt of final subdivision approval for the first increment.~~

- ~~12. Should any salvage archaeological work be necessary as a result of condition (M), work shall be completed prior to any grading or grubbing activities.~~
- ~~13. Should any unanticipated sites be uncovered during grading of the property, work within the affected area shall cease. The Planning Department shall be notified and work shall not resume within the affected area until clearance has been obtained from the Planning Director.~~
- ~~14. All other applicable rules, regulations, and requirements, including those of the Department of Water Supply, shall be complied with.~~

~~Should any of the foregoing conditions not be met, the Special Management Area (SMA) Use Permit shall be automatically voided.]~~

The applicants, its successor or assigns shall be responsible for complying with all stated conditions of approval.

2. The applicant shall comply with all applicable conditions of Change of Zone Ordinance No. 01-65.
3. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.

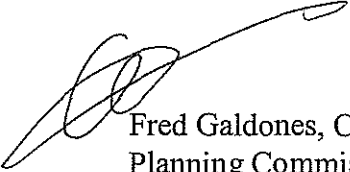
Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the permit.

This approval does not, however, sanction the specific plans submitted with the request as they may be subject to change given specific code and regulatory requirements of the affected agencies.

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Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,


Fred Galtones, Chairman
Planning Commission

Lqtsma201PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
Planning Department - Kona
Rodney Haraga, Director/DOT-Highways, Honolulu
Ms. Alice Kawaha
Zoning Inspector-Kona
Mr. Robert Ozaki

CERTIFIED MAIL

December 29, 1983

Mr. Glen T. Koyama
Belt, Collins & Associates
606 Coral Street
Honolulu, Hawaii 96813

Dear Mr. Koyama:

Special Management Area (SMA)
Use Permit Application
Petitioner: Kuakini Corporation
TMK: 7-4-08:Portion of 2

The Planning Commission at its duly held public hearing on December 21, 1983, voted to approve the above application, Special Management Area (SMA) Use Permit No. 201, at Kailua-Kona, Keahuolu, North Kona, Hawaii.

Approval of this request is based on the following:

The proposed project is consistent with the objectives, policies, and special management area guidelines as established pursuant to Chapter 205-A, Hawaii Revised Statutes, as amended. These objectives and policies provide guidelines for the preservation, protection and development of coastal resources of the County. They identify several areas of management concerns including historic, recreational and scenic resources, coastal ecosystems, economic use and coastal hazards.

The proposed development is to allow the subdivision of the property into seventy-six 1- and 2-acre sized industrial lots. Related improvements will include roadway, water, sewer, power and telephone utilities and landscaping work.

Since the property is situated over 1,000 feet from the

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shoreline at its nearest point, it is felt that the proposed development is not anticipated to have any substantial adverse environmental or ecological effects on the coastal resources. Further, the proposed development will not interfere with the natural shoreline processes nor with any recreational resources along the coastal area. The property is not known to contain any unique ecosystems, nor provide habitats for any endangered animal or plants species. Further, any visual impact that the proposed development may create can be mitigated through existing regulations and further requirements of conditions of approval. As stated as a policy and standard of the industrial element of the General Plan, "The County shall attempt to improve aesthetic quality of industrial sites and protect amenities of adjacent areas by requiring landscaping, open spaces, and buffer zones," and that "Buffer zones shall be established between industrial and adjacent non-compatible uses of land." Furthermore, as required as condition of approval of the zone change, the petitioner is required to submit an overall landscaping master plan which would include a plant species list for landscaping, identification of view corridors from within and outside of the subdivision, and a program for maintenance of the landscaped areas. The petitioner is also required to submit a Development Design Manual which would include standards and guidelines relative to landscaping, open spaces, architectural building controls, etc.

Although an archaeological reconnaissance survey was conducted of the property, the report concluded that the features found do not appear to be worthy of preservation. The petitioner, however, will be required to conduct an intensive archaeological survey of the area. Further, should any unanticipated sites be uncovered during land preparation activity, the petitioner is required to cease work and not resume until clearance is obtained from the Planning Department.

The property is not located within any known potential flood hazard area. Therefore, the potential of damages from flood action should be minimized, if at all.

Other impacts from the proposed development will be short-term in nature. There may be some insignificant adverse impacts with respect to noise and dust associated with the land preparation activity. However, these impacts will be temporary in nature and can be mitigated by existing regulations.

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A pending change of zone request would classify the subject property as "Industrial" and "Open". The proposed development would be consistent with those zoning classifications.

Finally, the proposal to develop the property into an industrial subdivision will conform to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map which designates the property for industrial uses. The proposed development will also be consistent with the requested zoning change pending before County. The effective date of this permit will be after the rezoning ordinance has been adopted and thus the development of the land will be consistent with the provisions of the zoning code. As such, it is determined that the proposed development is consistent with the General Plan and other applicable codes and regulations.

Based on the above, it is determined that the proposed development will not have any substantial impacts on the area. Furthermore, its approval will be consistent with the objectives and policies of Chapter 205-A, HRS, Relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the SMA, the General Plan and other related codes and regulations.

Approval of this Special Management Area (SMA) Use Permit request is subject to the following conditions:

1. The SMA Use Permit shall not become effective until after the change of zone application of the property has been adopted.
2. The petitioner, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
3. An overall landscaping master plan, which includes landscaping along the property's frontages along Queen Kaahumanu Highway and the Old Airport Road, a plant species list; and identification of view corridors from within and outside of the subdivision, and a program for its maintenance; shall be submitted to the Planning Director for review and approval prior to issuance of final subdivision approval of the first increment.
4. Channelized intersection improvements shall be provided at the Queen Kaahumanu Highway meeting with the approval of the State Department of Transportation, Highways Division.

Further, only one access shall be permitted from Queen Kaahumanu Highway. The intersection improvements shall be constructed prior to or as part of the final subdivision approval of the first increment.

5. Access(es) from the Old Airport Road shall meet with the approval of the Department of Public Works.
6. No direct accesses to the lots shall be allowed from the Queen Kaahumanu Highway and the Old Airport Road.
7. All interior roadways shall be constructed in accordance with the requirements of the Department of Public Works.
8. A drainage system in accordance with the requirements of the Department of Public Works shall be installed.
9. Prior to receipt of final subdivision approval, a Development Design Manual shall be prepared and submitted to the Planning Department for approval. The purpose of the manual is to provide comprehensive design principles and guidelines for the development of the industrial lots in order to achieve a high standard of quality for the development. The manual shall include, but not be limited to, standards and guidelines relative to landscaping, open space, architectural building controls, (appearance, siting, heights, building materials, signs, etc.), setbacks from property lines and buildings, ground cover ratio, etc.
10. The method of sewage disposal shall meet with the approval of the appropriate governmental agencies.
11. A intensive archaeological survey for the property shall be conducted and that the survey report shall be submitted to the Planning Department and the State Department of Land and Natural Resources prior to receipt of final subdivision approval of the first increment.
12. Should any salvage archaeological work be necessary as a result of condition (M), work shall be completed prior to any grading or grubbing activities.
13. Should any unanticipated sites be uncovered during grading of the property, work within the affected area shall cease. The Planning Department shall be notified and work

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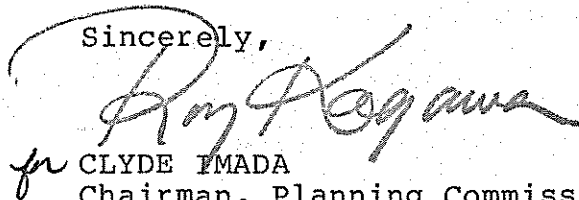
shall not resume within the affected area until clearance has been obtained from the Planning Director.

14. All other applicable rules, regulations, and requirements, including those of the Department of Water Supply, shall be complied with.

Should any of the foregoing conditions not be met, the Special Management Area (SMA) Use Permit shall be automatically voided.

Please feel free to contact the Planning Department if there are any questions on this matter.

Sincerely,



for CLYDE IMADA
Chairman, Planning Commission

cc: Chief Engineer
Public Works, Building Section
Department of Water Supply
Kona Services Office
Ms. Rebecca Hagerman, Kona Outdoor Circle

*Sent as requested 1/20/84
smn*

bcc: Plan Approval Section