

CERTIFIED MAIL

December 17, 1987

Mr. Sidney Fuke  
Planning Consultant  
100 Pauahi Street, Suite 212  
Hilo, Hawaii 96720

Dear Mr. Fuke:

Special Management Area (SMA) Application  
Petitioner: Guy Startzman  
TMK: 6-9-03:22

The Planning Commission at its duly held public hearing on December 9, 1987, voted to approve your application, Special Management Area Use Permit No. 267, to establish a convenience store/real estate office/residential complex on 19,366 square feet of land in the Hotel-Resort (V-1.25) zoned district at South Kohala, Hawaii.

Approval of this request is based on the following:

The approval of the proposed convenience store/real estate office/residence will not be violative of the objectives and policies stated in Chapter 205-A, Hawaii Revised Statutes (HRS), nor with the intent of Rule No. 9 of the Planning Commission relating to the Special Management Area.

The purpose of Chapter 205-A, HRS, and Rule No. 9 is to preserve, protect and where possible, restore the natural resources of the coastal zone areas. As a result, special controls on development may be necessary to avoid irretrievable loss of the valuable resources and the foreclosure of management and options. No rare or endangered species of plant or animal life nor any known historical sites have been identified on the subject property. With the combination of waste disposal meeting the approval of the State Department of Health and on-site water runoff meeting the requirements of Public Works, potential degradation of offshore waters should be effectively mitigated. In addition, the proposed resort use is of such a limited nature that the amount of pollutants generated from the project is comparatively less than the adjacent condominium use.

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The provision for heavy landscaping to buffer the proposed structure and its uses from neighboring properties on the north, west and east sides is being made a condition of this approval. Thus, any negative visual impacts should be minimized in this manner.

Impacts such as noise and dust from the proposed construction will be short term and its disruption can be minimized through existing acceptable construction practices.

The proposed convenience store/real estate office/residence is consistent with the General Plan Resort designation and the County Resort-Hotel zoning of the property provided the Planning Director determines that all proposed uses are necessary to the proper functioning of the resort area. In consideration of the potential increase in pedestrian and vehicular traffic, it is recommended that curbs, gutters and sidewalks be installed adjacent to and along the frontage of the property. Except for the Puako Apartments, the proposed development is the first resort use to be established in this area. This development will set a precedent for future projects which must be accompanied by such off-site improvements.

Based on the foregoing, the proposed development will not have any substantial adverse impact on the surrounding area. Its approval will be consistent with Chapter 205-A, HRS, relating to Coastal Zone Management; Rule No. 9 of the Planning Commission, relating to the Special Management Area; the Hawaii County Zoning Code and the General Plan of the County of Hawaii.

Approval of this request is subject to the following conditions:

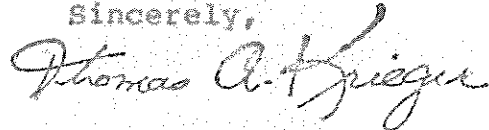
1. The petitioner, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
2. Plans for Plan Approval review, including a landscaping plan, shall be submitted to the Planning Department within one year from the effective date of this permit. Landscaping shall be provided within the property on its north, east, and west sides to visually buffer the two-story structure, the parking area and the proposed uses.

3. The Puako Beach Drive frontage of the subject property shall be improved with curbs, gutters, sidewalks, and other related improvements including provisions for the handicapped or some alternative improvements as deemed appropriate by the Planning Director. Plans for these improvements are to be reviewed by the Chief Engineer and approved by the Planning Director prior to the issuance of final Plan Approval.
4. Construction of the facility shall commence within one year from the date of receipt of Final Plan Approval and be completed within two years thereafter.
5. Comply with the requirements of the Department of Public Works and the State Department of Health.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department, when it finds that sufficient mitigative measures have been taken.
7. Comply with all other applicable rules, regulations and requirements.
8. 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 petitioner, 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 general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and d) 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). Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate procedures to nullify the permit.

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

Sincerely,



Thomas A. Krieger  
Chairman, Planning Commission

cc: Guy Startzman  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Office - Kona  
DBED, CZM Program w/background

bcc: Plan Approval Section