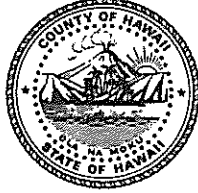


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252  
(808) 961-8288 Fax (808) 961-9615

#### CERTIFIED MAIL

April 13, 1995

Mr. Alan Brown  
Kawaihae Mali'e Partnership  
P.O. Box 44400  
Kawaihae, HI 96743

Dear Mr. Brown:

Special Management Area Use Permit (SMA) Application 95-1  
Applicant: Kawaihae Mali'e Partnership  
Request: Construct Gas Station & Retail Commercial Center,  
Demolish Existing Gas Station  
Tax Map Key: 6-1-3:4 and 8

The Planning Commission at its duly held public hearing on March 30, 1995, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 355 is hereby issued to allow the construction of a gas station, retail commercial center and related improvements. The project site is located mauka of the Kawaihae Wharf Approach Road where the Kawaihae-Mahukona Road and the Kawaihae Road intersect, Kawaihae 1st, South Kohala, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes, and Rule 9, Special Management Area (SMA) Rules and Regulations of the Planning Commission, is to preserve, protect and, where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within the area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

One of the criteria for approving a development within the SMA is that it is consistent with the General Plan and Zoning Code. The proposed project does conform to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates

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this area for Medium Density Urban use, which allows for commercial uses such as those proposed.

Another criteria in reviewing an SMA Use Permit application is that, "The 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 elimination of planning options." The proposed development is not anticipated to have substantial adverse ecological effects. The property, which is within an area that has been extensively developed, is not known to contain any unique ecological systems nor provide habitats for any endangered plant or animal species. No adverse impacts on air and water quality are expected to be generated by the proposed development.

The property is located on the mauka side of the Kawaihae Wharf Approach Road. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Negative impacts on the local water resulting from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. Wastewater will be disposed of by a Department of Health approved septic tank. Therefore, no significant adverse impact to coastal ecosystems is anticipated.

The proposed development is not expected to have adverse impact on public access to or along the shoreline since it is located on the mauka side of the Kawaihae Wharf Approach Road.

Viewplanes should not be impacted by the proposed development. In the Village Commercial zoned district, a height limit of 30 feet is provided. The project does not propose to exceed the allowable height restrictions of this district.

It is unlikely that historical or archaeological resources will be impacted on the property because of the extensive land alterations the site has already undergone.

Based on the above, it is determined that the proposed development will not have 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 this request is subject to the following conditions:

1. The applicant, successors or assigns shall comply with all stated conditions of approval.
2. The applicant, its successors or assigns shall indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of the permit.
3. Final Plan Approval for the development shall be secured from the Planning Department in accordance with Section 25-243 of the Zoning Code. Plans shall identify proposed structures, paved driveway access and parking stalls associated with the proposed use. Landscaping shall also be indicated on plans and be provided for the purpose of mitigating noise and visual impact to adjacent properties, including vehicular traffic.
4. Construction of the proposed development shall be completed within three years from the effective date of this permit.
5. A solid waste management plan for the development shall be prepared meeting with the approval of the Department of Public Works prior to issuance of a certificate of occupancy for any portion of the project. The plan shall include, but not be limited to, the management of solid waste generated from the construction and operating phase of the proposed development. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works. A copy of the approved plan shall be submitted to the Planning Department for its files.
6. An emergency response plan shall be prepared meeting with the approval of the Civil Defense Agency prior to issuance of a certificate of occupancy for any portion of the project. The plan shall address fire, hurricane and tsunami hazards. A copy of the approved plan shall be submitted to the Planning Department for its files.
7. Comply with all applicable laws, rules, regulations and requirements of the affected agencies.
8. An extension of time for the performance of conditions within the permit may be granted by the Planning Director

Mr. Alan Brown  
Kawaihae Mali'e Partnership  
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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 General Plan or Zoning Code; c) granting of the time extension would not be contrary to the original reasons for 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).

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

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

Should you have any questions, please feel free to contact Connie Kiriou or Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Wilton K. Wong, Chairman  
Planning Commission

CRK:syw  
LKawai01.PC

xc: Honorable Stephen K. Yamashiro, Mayor  
Planning Director  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
Office of State Planning, CZM Program w/background  
Department of Land and Natural Resources  
Plan Approval Section  
Civil Defense