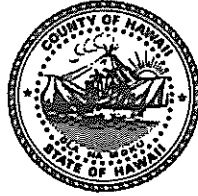


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 323 278

January 25, 1996

Mr. William V. Brilhante  
Brilhante-Hawaii, Inc.  
1342 Kilauea Avenue  
Hilo, HI 96720

Gentlemen:

Special Management Area Use Permit Application (SMA 95-9)  
Applicant: Mauka Ventures  
Request: To Allow Construction of a New Retail Convenience Store  
Tax Map Key: 2-1-6:3

---

The Planning Commission at its duly held public hearing on January 11, 1996, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 360 is hereby issued to allow the construction of a retail convenience store and related improvements. The property is located approximately 182 feet east of the Kalaniana'ole Street-Kamehameha Avenue junction, across of the Hukilau Restaurant at Waiakea, South Hilo, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205-A, 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 proposed development will not have any significant adverse environmental or ecological effect. The proposed development is to allow the construction of a new retail convenience store and related improvements. The property has been cleared and the surrounding area has been extensively developed and therefore, there should not be any impacts to any endangered species of flora or fauna or their special habitats within the project site. Wastewater generated by the project will be disposed of in accordance with the requirements of the Department of Public Works. Air emissions generated during the

CC812

JAN 25 1996

construction phase can be mitigated by existing construction regulations. Therefore, impacts to the physical environment within the immediate area which may be generated by the proposed development will be minimal.

The proposed development is consistent with the objectives, policies and guidelines of the Special Management Area. These were established to provide guidance for the preservation, protection and development of coastal resources of the State and County. They identify several areas of management concerns including historic, recreational, scenic resources, coastal ecosystems, economic use and coastal hazards. The surrounding area includes existing resort and industrial uses and the presence of any significant historic or archaeological feature is remote. The property is located approximately 130 feet from the shoreline and mauka of Kalaniana'ole Street. Therefore, the project will not interfere with any recreational resources, with the natural shoreline processes nor impact viewplanes to the coastal area. The economic use of the area will be enhanced by the proposed development.

Runoff or discharge generated by the proposed development will be handled by on-site drainage improvements meeting with the approval of the Department of Public Works. Potential adverse impacts to coastal waters from soil erosion and runoff during site preparation and construction can be adequately mitigated through compliance with existing construction regulations. The location of the project site from coastal areas coupled with the provision of on-site drainage improvements and compliance with existing governmental regulations to control runoff, drainage, erosion and wastewater disposal would mitigate any adverse impact to the area's environment or the ecology of the area's coastal waters.

The proposed development within the Special Management Area is consistent with the General Plan and Zoning Code. The approval of the request would not conform to the General Plan's Land Use Pattern Allocation Guide (LUPAG) Map which designates the area for Industrial uses. However, the proposed project would complement the goal of the Commercial Land Use Element which states "Provide for commercial developments that maximize convenience to users." The property is currently zoned Resort-Hotel which allows for the proposed retail convenience store uses as they will service the resort area along Banyan Drive as well as the local residents. Approval of this request will be consistent with the general purpose of the General Plan and the Zoning Code.

Based on the above, the proposed development will not have any substantial adverse impacts to the subject or surrounding area and, therefore, will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management, Rule 9 of the Planning Commission relating to the Special Management Area, and the General Plan and Zoning Code of the County of Hawaii.

Approval of this request is subject to the following conditions:

1. The applicant, successors or assigns shall be responsible for complying with all of the 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. Construction of the development and related improvements shall be completed within five (5) years from the effective date of this permit. This time period shall also include the securing of Final Plan Approval for the proposed development and related improvements from the Planning Department in accordance with Section 25-243 of the Zoning Code. Plans shall identify existing and proposed structures, paved driveway access and paved parking associated with the proposed uses. Landscaping shall also be indicated on the plans and be provided for accordingly.
4. Wastewater generated by the proposed development shall meet the requirements of the Department of Public Works.
5. Driveway accesses and improvements shall meet with the approval of the County Department of Public Works and/or State Department of Transportation, Highways Division.
6. Installation of a street light at the Kamehameha Avenue/project driveway intersection shall meet with the approval of the State Department of Transportation, Highways Division.
7. 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 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.
  - 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).

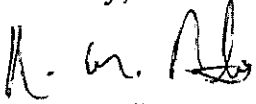
Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

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.

Mr. William V. Brilhante  
Brilhante-Hawaii, Inc.  
Page 4  
January 25, 1996

Should you have any questions, please feel free to contact Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman  
Planning Commission

AK:syw  
LMauka01.PC

cc: Honorable Stephen K. Yamashiro, Mayor  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Office of State Planning, CZM Program w/background  
Department of Land and Natural Resources