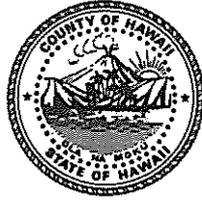


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

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

CERTIFIED MAIL
Z 095 323 861

MAY 13 1997

Mr. Guy Startzman
81 Puako Beach Drive
Kamuela, HI 96743

Dear Mr. Startzman:

Special Management Area Use Permit Application (SMA 97-4)
Applicant: Guy Startzman
Request: Development of a Two-Story Retail/Office Building
Tax Map Key: 6-1-3:2

The Planning Commission at its duly held public hearing on May 1, 1997, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 376 is hereby issued to develop a two-story retail/office building and related improvements. The property is located on the mauka side of Kawaihae Road near its junction with Akoni Pule Highway and directly across the Kawaihae Harbor Facility at Kawaihae, South Kohala, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS) and 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.

The development of the two-story 4,000-square foot retail/office building 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 will consist of a two-story retail/office building and related improvements. The property was cleared and used for a restaurant in the past and lies within an area that has been extensively developed. The proposed development would

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not impact the immediate adjacent properties as the subject property is surrounded by general industrial, village commercial uses and vacant lands. The property is not known to contain any unique ecological systems nor provide habitats for any endangered plants or animal species. No adverse impacts on air and water quality are expected to be generated by the proposed development. Therefore, there would be no adverse impact to recreational and visual resources, access to and along the shoreline nor coastal ecosystems.

The proposed development 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. According to the applicant, the proposed project will be serviced by a septic tank system. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment. Likewise, the potential of finding rare or endangered animal life is not 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 Road.

Water service is available to the property via connection to an existing 5/8-inch waterline at 600 gallons per day. In addition, the applicant will provide a water storage system for the new structure.

According to State Department of Health, the property is located in the Critical Wastewater Disposal Area where cesspools are not allowed. The applicant proposes to utilize an on-site septic tank system(s) constructed pursuant to the requirements of the State Department of Health.

Exhaust gases from construction equipment may cause a temporary reduction of air quality at the project site during construction. There may be some generation of dust near the construction area resulting from transport and handling of construction materials. There would be temporary, localized increases in ambient noise due to operation of heavy equipment during project construction. Precautionary measures will be implemented for traffic, noise and dust during the construction phase, thus the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

The viewplanes should not be impacted by the proposed development. The proposed development is located mauka of Kawaihae Road, approximately 550 feet from the shoreline. 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.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project does conform to the General Plan Land Use Pattern

Allocation Guide (LUPAG) Map, which designates this area for Medium Density Urban. Medium Density Urban allows neighborhood and village commercial uses provided applicable goals, policies and standards are met. Mindful of the type of service the applicant will provide to the residents of South Kohala, the proposed use will compliment the following goals, policies and standards of the Land Use and Commercial Elements of the General Plan:

- o Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- o The County shall encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment.
- o Provide for commercial developments that maximize convenience to users.
- o Commercial facilities shall be developed in areas adequately served by necessary services, such as water, utilities, sewers and transportation systems.
- o Distribution of commercial areas shall be such as to best meet the demands of neighborhood, community and regional needs.
- o The development of commercial facilities should be designed to fit into the locale with minimal intrusion while providing the desired services. Appropriate infrastructure and design concerns shall be incorporated into the review of such developments.

The proposed use would also conform to the following goals and policies of the Economic Element:

- o Provide residents with opportunities to improve their quality of life.
- o Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.
- o The County of Hawaii shall strive for diversification of its economy by strengthening existing industries and attracting new endeavors.

Based on the above findings, it is determined that the proposed development 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 this request is subject to the following conditions. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke the Special Management Area Major Use Permit.

1. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

2. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit. Prior to commencing construction, Final Plan Approval for the proposed retail/ commercial office building shall be secured from the Planning Department. Plans shall identify proposed structures, paved driveway access and parking stalls associated with the proposed use.
3. An overall landscaping master plan, which includes landscaping along the side/rear property boundaries, shall be submitted to the Planning Director for review and approval prior to the issuance of Final Plan Approval.
4. Prior to securing Final Plan Approval, the developer shall prepare a Solid Waste Management Plan for the development meeting with the approval of the Department of Public Works.
5. A Drainage Study, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for Final Plan Approval. Drainage improvements, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works prior to opening of the development.
6. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, walls, lava tube or cave systems be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
7. Comply with all applicable laws, rules, regulations and requirements of the affected agencies, including the Department of Health.
8. Upon compliance with applicable conditions of approval and prior to the opening of the proposed development, the applicant shall submit a final status report, in writing, to the Planning Director.
9. An initial 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 applicants, 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.

- 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).

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 Alice Kawaha or Susan Gagorik of the Planning Department at 961-8288.

Sincerely,



Kevin M. Balog, Chairman
Planning Commission

AK:syw

LStart01.PC

cc: 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
Kazu Hayashida, Director/DOT-Highways, Honolulu