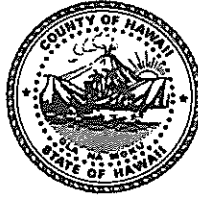


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

CERTIFIED MAIL  
Z 095 324 022

JUN 26 1998

Mr. Brian Nishimura  
101 Aupuni Street, Suite 217  
Hilo, HI 96720

Dear Mr. Nishimura:

Special Management Area Use Permit Application (SMA 98-4)  
Applicant: NF, Inc.  
Request: Construct a Multiplex Theater Complex and Related Improvements  
Tax Map Key: 7-5-7:7 and 8

The Planning Commission at its duly held public hearing on June 19, 1998, voted to approve the above-referenced application. Special Management Area Use (SMA) Permit No. 384 is hereby issued to allow the development of a multiplex theater complex and related improvements. The property is the site of Kona Marketplace Shopping Center and bounded by Sarona Road, Ali'i Drive and Kakina Road in Kailua-Kona, North Kona, 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 multiplex theater complex and related improvements 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 project consists of a multiplex theater complex and other related improvements. The proposed project is located at the Kona Marketplace Shopping Center and bounded by Sarona Road, Ali'i Drive, and Kakina Road. The property is located approximately 400 feet from the shoreline and on the mauka side of Ali'i

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Drive. The entire property has been developed for commercial purposes. In addition to the five commercial structures, site improvements include a parking lot, concrete walkways and landscaping plants. There are no known rare or endangered plant life or animal species on the property or in its immediate vicinity. The area of the proposed improvements has already been modified by the existing commercial center and, thus, the proposed development will not have any effect on significant historic sites. Nevertheless, a condition will be included to require the notification of the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) should archaeological sites be encountered during the course of 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 would not impact the immediate adjacent properties as the subject property is surrounded by a mix of retail, office and residential uses.

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. The subject property is located approximately 400 feet from the shoreline and on the mauka side of Ali'i Drive and therefore, the proposed project will not reduce the size of any beach or other area usable for public recreation. Further, the proposed project will not reduce or impose restrictions upon public access to tidal and submerged lands, beaches, portions of rivers and streams within the Special Management Area and the mean high tide line where there is no beach.

The proposed development is not anticipated to have any significant environmental or ecological effect. The property as well as the surrounding area has been extensively developed and it 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 during the proposed development. Air emissions generated during the construction phase can be mitigated by existing regulations.

The property is located approximately 400 feet from the nearest shoreline. 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. Municipal treatment of wastewater will be provided as required to avoid impacts to coastal ecosystems. Therefore, no significant adverse impact to coastal ecosystems is anticipated.

The development is not expected to have adverse impact on public access to or along the shoreline since the subject property is located approximately 400 feet from the shoreline. Because of the relatively level topography of the area, both the mauka and makai view planes from this area will not be significantly affected.

Due to the existing development of the subject property and surrounding properties, the presence of any significant historic or archaeological feature is remote. Any potential impacts to historical or archaeological resources has been satisfactorily mitigated.

The proposed development is consistent with the County General Plan and Zoning Code. The proposed project conforms to the General Plan Land Use Pattern Allocation Guide (LUPAG) Map, which designates the area for Resort uses. This type of designation refers and includes uses such as business services, hotels, restaurants, retail establishments, theaters and visitor information centers. The proposed multiplex theater complex and related improvements will compliment the following goals, policies and standards of the Land Use, Economic, and Commercial Elements of the General Plan:

#### LAND USE

- 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 Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and 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.

#### ECONOMIC

- 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.

#### COMMERCIAL

- o Provide for commercial developments that maximize convenience to users.
- o Provide commercial developments that complement the overall pattern of transportation and land usage within the island's regions, communities, and neighborhoods.

The proposed project will not change the existing use of the property, it will only enhance and maximize the comfort and convenience of the patrons of the theater complex and will be in compliance with Americans with Disabilities Act (ADA) requirements. The movie going public will be given a wider variety of choice by having five theaters instead of the existing two theaters. The modern theater complex will be designed and built to serve the public needs. Thus, it is determined that the purpose and provision of this type of commercial development in this district will be implementing the General Plan's Commercial Element.

Based on the above findings, it is determined that the proposed multiplex theater and related improvements 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 shall initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Construction of the proposed development and related improvements shall be completed within five (5) years from the effective date of this permit. This time period shall include the securing of Final Plan Approval from the Planning Director for the proposed development. Plans shall identify structures, fire protection measures, paved and striped parking stalls and driveway, landscaping and other improvements associated with the proposed use.
3. The applicant shall submit and secure a Planned Unit Development Permit prior to the securing of Final Plan Approval.
4. Wastewater generated by the proposed development shall be disposed of meeting with the requirements and approval of the Department of Public Works and/or the Department of Health.
5. Access, roadway and any drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
6. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, 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 affected agencies for the proposed multiplex theater and related improvements, including the Fire Department and the Civil Defense Agency.
8. A final status report shall be submitted in writing to the Planning Director upon compliance with all conditions of approval and prior to commencing operation of the multiplex theater complex.
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 applicant, successors or assigns, and that are not the result of their fault or negligence.

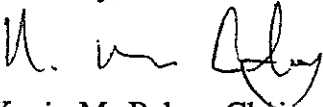
Mr. Brian Nishimura  
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- B. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension 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 contact Alice Kawaha of the Planning Department at 961-8288 or Royden Yamasato of the Planning Department West Hawaii Office at 327-3510.

Sincerely,



Kevin M. Balog, Chairman  
Planning Commission

LNFInc01.PC

cc: NF, Inc.  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
Office of Planning, CZM Program (w/Background)  
Department of Land and Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Civil Defense Agency