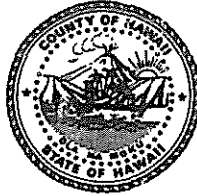


Stephen K. Yamashiro  
Mayor



## County of Hawaii

### PLANNING COMMISSION

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

#### INTERDEPARTMENTAL MAIL

SEP 03 1998

Donna Fay K. Kiyosaki, P.E.  
Chief Engineer  
Department of Public Works  
25 Aupuni Street, Room 202  
Hilo, HI 96720

Dear Ms. Kiyosaki:

Special Management Area Use Permit Application (SMA 98-5)

Applicant: County of Hawaii, Department of Public Works

Subject: Construction of the Alii Highway and Related Improvements

Tax Map Key: 7-5-17:5, 7-5-19:1, 13, 40, 41, 43-45; 7-5-20:1, 69-73, 76; 7-6-13:8, 9, 37; 7-6-14:1, 19, 20; 7-6-15:1, 5-7; 7-6-16:1, 27; 7-6-17:1, 4, 7, 68; 7-6-18:29-34, 107-110; 7-6-19:67-74, 92, 93, 98; 7-6-25:16; 7-7-4:2, 11, 43, 47, 56; 7-7-8:11, 21, 30, 31, 96, 99; 7-8-10:2, 3, 35, 40, 52, 78, 93; and 7-8-14:90, 93

The Planning Commission at its duly held public hearing on August 20, 1998, voted to approve the above-referenced application and adopt the Report of the Contested Case Hearing Officers and Proposed Findings of Fact and Conclusions of Law; Decision and Order with the Exceptions as proposed by the Planning Director. Special Management Area (SMA) Use Permit 386 is hereby issued to allow the construction of the Alii Highway and related improvements. The project site is located between Queen Ka'ahumanu/Kuakini Highway and Ali'i Drive and extends from Kahalui 1st to Keauhou, North Kona, Hawaii.

Approval of this request is based on the following:

#### FINDINGS OF FACT

1. On or about June 16, 1998, DPW submitted an application for a SMA Use Permit on its behalf, to allow the development of the Ali'i Highway project, a four-lane highway construction project of approximately 4.5 miles from Kailua to Keauhou, and related improvements (the "Project").

08318

SEP 03 1998

Description of the Project Site and Surrounding Area

2. The Project is located within the County's SMA on approximately 61.4 acres, consisting of a 300 foot wide corridor, 4.5 miles long, identified as Tax Map Keys 7-5-17:005; 7-5-19:001, 013, 040, 041, 043-045; 7-5-20:001, 069-073, 076; 7-6-13:008, 009, 037; 7-6-14:001, 019, 020; 7-6-15:001, 005-007; 7-6-16:001, 027; 7-6-17:001, 004, 007, 068; 7-6-18:029-034, 107-110; 7-6-19:067-074, 092, 093, 098; 7-6-25:016; 7-7-04:002, 011, 043, 047, 056; 7-7-08:011, 021, 030, 031, 096, 099; 7-8-10:002, 003, 035, 040, 052, 078, 093; and 7-8-14:090, 093, situated between Kailua and Keauhou, North Kona, County and State of Hawaii.

3. With the exception of one residence and miscellaneous uses, the Project site is currently vacant of any use and portions of the Project were formerly used for cattle grazing and other related activities.

4. The slope of the Project site ranges from 0 to 10% across the site. The majority of the highway lies on a relatively flat slope (2-4%) while the portions between Kuakini Highway and Queen Ka'ahumanu Highway are steeper in slope (up to 10%).

5. There are no threatened or endangered species as listed by the U.S. Fish and Wildlife Service or the Department of Land and Natural Resources present on the Project site, nor are there any unique or valuable wildlife habitats.

6. The Project is located over 750 feet from the shoreline at its nearest point. The Project site is buffered from the shoreline by residential development makai of Ali'i Drive, Ali'i Drive which has a 50 foot right-of-way, and the lands mauka of Ali'i Drive.

7. An initial feasibility study was done in 1968, and an Environmental Impact Statement (EIS) for Ali'i Highway was completed in 1973. In 1988, a revised EIS was completed, meeting both Federal and State requirements.

8. The lands surrounding the Project area are zoned Agricultural-5 acres (A-5a), Single Family Residential-7,500 square feet (RS-7.5), Single Family Residential-15,000 square feet (RS-15), Multiple Family Residential-1,000 square feet (RM-1), Multiple Family Residential-1,500 square feet (RM-1.5), Multiple Family Residential-2,000 square feet (RM-2), Multiple Family Residential-3,000 square feet (RM-3), Multiple Family Residential-4,000 square feet (RM-4), Village Commercial-7,500 square feet (CV-7.5) and Resort/Hotel-4,000 square feet (V-4). Surrounding lands are a mixture of single family residential subdivisions, condominiums/apartments, resort hotels, commercial establishments, agricultural and vacant lands.

### Project Description

9. The Project site consists of approximately 61.4 acres of land within the County's SMA located between Kuakini Highway and Ali'i Drive and extends from Kahului 1st to Keauhou, North Kona, Hawaii.

10. DPW plans to construct at the Project site, a four lane, 4.5 mile highway, with a 100 foot right-of-way within a 300 foot corridor between Kahului 1st on the north end and Keauhou at the south end.

11. The Ali'i Highway will be built to the applicable highway construction standards of the Federal government, State of Hawaii and County of Hawaii.

12. The highway will consist of four 12-foot wide lanes with two lanes in each direction. The highway will have paved shoulders within a minimum 100-foot wide right-of-way.

13. DPW plans to construct the Ali'i Highway in two phases. Phase 1 of the Ali'i Highway would be from the Queen Ka'ahumanu Highway extension running makai and parallel to Kona Hillcrest Subdivision, crossing Kuakini Highway, running parallel to and ranging approximately 500 to 1,500 feet mauka of Ali'i Drive, and ending near the vicinity of Royal Poinciana Drive. This section of the highway will be approximately 8,500 lineal feet. Phase 2 would continue the highway toward the south and end near the intersection of Ali'i Drive and Kamehameha III Road. This section of the highway will be approximately 16,500 lineal feet. Other intersection improvements may be constructed as warranted. Phasing in terms of two lanes within a four lane right-of-way is not being considered because of requirements for federal funds.

14. Intersection connectors with traffic signalization are proposed at Queen Ka'ahumanu Highway extension, Kuakini Highway, Royal Poinciana Drive and Kamehameha III Road. Unsignalized intersection connectors are also proposed at four (4) locations in the Kahaluu and Keauhou districts, in addition to the Makolea Street intersection. Left and right turn lanes with appropriate acceleration/deceleration storage lanes would be provided at appropriate intersections.

15. Mauka makai accesses to Ali'i Highway were identified; these are located at Royal Poinciana Drive, Lako Street, La'aloa Street, Makolea Street, a street within Hawaiian Kona Coast Development, and a street within the Ali'ilani development.

16. The Ali'i Highway is to be constructed to avoid traversing significant archaeological sites, to include the Keakealani Wahine Complex which is located more than 100 feet mauka of Ali'i Drive and Holualoa Bay; and the Pa-o-Umi Heiau, Halelaau Heiau and two other unnamed heiaus, and the Ohia Cave which are located on the lands of Kahalu'u Historic District. The Ali'i Highway will breach the Great Wall of Kuakini at two sections, one approximately 250 feet makai of Kuakini Highway and the other section is located in Pahoehe 1st-4th. Other archaeological and cultural sites have also been identified.

17. The Ali'i Highway will also traverse four floodplain areas. These are the Waiaha Stream where the drainage way enters into Kahului Bay, Horseshoe Bend/Holualoa Gulch and an unnamed gulch drainage way which ends north of Holualoa Bay, and Kaumalumalu Gulch drainage way which ends in an area south of Kamo Point.

18. Construction of the Project is intended to reduce congestion on the existing Ali'i Drive as well as the existing roadway network and provide adequate new capacity to serve future development in the Kailua to Keauhou corridor through the year 2020.

19. Ali'i Drive was constructed long before the emergence of the Kailua-Keauhou region as a major destination area. Because of the tremendous growth that has occurred in North Kona over the past several decades, Ali'i Drive has become congested. Moreover, analysis of vehicular traffic in the Kailua-Keauhou corridor suggests that this growth trend will continue for the foreseeable future.

20. Reliance on the existing roadway network is no longer considered feasible or desirable, and the Ali'i Highway Project is proposed to alleviate these problem areas:

- a. The roadway network can no longer adequately serve existing and projected traffic volumes;
- b. Deficiencies related to the safety of the roadway network; and
- c. Environmental problems resulting from large numbers of vehicles using a narrow roadway bordered by substantial urban development.

#### Objectives and Policies of Chapter 205A, HRS

21. The Project is consistent with the Coastal Zone Management ("CZM") program's objectives, policies and guidelines as contained in Chapter 205A-2, HRS, and the guidelines set forth in Rule 9-7, Plan. Comm. Rules, relating to the SMA.

#### Recreational Resources

22. The CZM recreational resources objectives and policies are focused on governmental responsibility to provide coordination and funding for coastal recreational opportunities and to provide accessible and diverse recreational opportunities in the CZM area.

The subject highway alignment is proposed to be located inland and mauka of the coastal area. The average distance of the highway from the shoreline is approximately 1,400 feet, with the nearest point at about 750 feet. It is further separated from the coastal area by the existing Ali'i Drive.

Several public recreational resources exist along the shoreline that fronts the four-mile stretch within the northern and southern limits of the project area. County maintained and managed parks are Holualoa Bay that offers surfing opportunities and Pahoehe, White Sands and Kahaluu Beach Parks offering picnicking, limited swimming and fishing activities. State parks in the area are the Kamo Point historic site complex and the Old Kona Airport, a regional beach park. The Ali'i Highway Project will not use lands from any federal, county, state or private park or recreational area.

The Project will relieve traffic congestion on Ali'i Drive, separate local and through traffic, improve safety conditions for pedestrians, joggers and cyclists, and reduce levels of air pollutants along Ali'i Drive. These changes will enhance recreational opportunities along the coastline.

Therefore the Project is consistent with the recreational resources objectives and policies of the CZM program.

#### Historic Resources/Cultural Resources

23. The CZM historic resources objectives and policies provide for the protection of significant archaeological and historic resources through the preservation or through information retention.

The Ali'i Highway corridor passes through an area that was an important center of population and economic and political power in the pre-contact and early monarch period. In order to address the Project's potential impact on archaeological resources, a Memorandum of Agreement (MOA), dated July 1987 was executed by the National Advisory Council on Historic Preservation, the Federal Highway Administration and the State Historic Preservation Officer, with the concurrence of the County of Hawaii, State Department of Transportation and the Office of Hawaiian Affairs. This MOA establishes the requirements and procedures for addressing the Project's impacts on archaeological resources. Furthermore, the Project alignment has been adjusted to avoid adversely impacting significant archaeological sites in the region.

DPW intends to fully comply with the provisions and requirements of the MOA. This will assure that the Project's impacts on archaeological and cultural resources are appropriately addressed and mitigated.

Therefore, the Project is consistent with the Historic/Cultural Resources objectives and policies of the CZM program.

24. There were no indications through the archaeological survey and the oral history that resources in the area were indicative of native Hawaiian gatherings.

25. The biological surveys showed no resources for which native Hawaiian gathering rights may have been exercised.

### Scenic and Open Space Resources

26. The CZM scenic and open space resources objectives and policies provide for the protection of important coastal scenic and open space resources. The Ali'i Highway development would consist of a four-lane roadway with paved shoulders. The subject highway alignment is proposed to be located inland and mauka of the coastal area. The average distance of the realigned highway from the shoreline is approximately 1,400 feet, with the nearest point at about 750 feet. It is further separated from the coastal area by the existing Ali'i Drive.

The total width of the disturbed area would vary depending on the slope of the land and the orientation of the roadway to the slope. In relatively level terrain, only the 100-foot right-of-way would be disturbed in the course of construction. In steeper areas, more than the 100-foot right-of-way will be needed to maintain cut and fill slopes.

The portions of the Project makai of Kuakini Highway, which forms the SMA boundary, are relatively level and therefore the cut and fill slopes would only be visible from areas immediately adjacent to the roadway. As a result, this portion of the roadway will not be visible from Kuakini Highway or from the coastal areas. However, as the roadway turns mauka in the vicinity of Kuakini Highway, the new roadway runs up slope at a moderately steep gradient between Kuakini Highway and the Hawaii Belt Road (Queen Ka'ahumanu Highway extension). Portions of this segment of the highway will be visible from other coastal areas. In general, the appearance of the steeper portion of the highway would be similar to the visual impact created by the existing Kamehameha III Road in Keauhou and Palani Road as it rises above Kailua. Again, this portion of the highway is outside of the SMA. Therefore, the Project is consistent with the scenic and open space resources objectives and policies of the CZM program.

### Coastal Ecosystems

27. These coastal ecosystem objectives and policies call for the protection of valuable coastal ecosystems from disruption and to minimize adverse effects. The subject highway alignment is to be located inland and mauka of the coastal area. The average distance of the highway from the shoreline is approximately 1,400 feet, with the nearest point at about 750 feet. It is further separated from the coastal area by the existing Ali'i Drive and therefore will not have any direct impact on coastal ecosystems. There are no unique plant or animal habitats associated with the highway corridor.

DPW will comply with all applicable laws, rules and regulations relating to environmental protection, including clean water, air quality, flood control and wastewater disposal. The County will further require that all contractors do the same. Therefore, the Project is consistent with the coastal ecosystems objectives and policies of the CZM program.

### Economic Uses

28. These economic uses objectives and policies are intended to ensure that coastal dependant developments are appropriately planned and developed. The subject highway alignment is to be located inland and mauka of the coastal area. The average distance of the Project from the shoreline is approximately 1,400 feet, with the nearest point at about 750 feet, and it is further separated from the coastal area by the existing Ali'i Drive. The Project will assist in the appropriate planning and development of the region, consistent with the CZM objectives and policies. Therefore, the Project is consistent with the economic uses objectives and policies of the CZM program.

### Coastal Hazards

29. The coastal hazard objectives and policies are intended to minimize impacts to life and property along the shoreline. The Project area is not within a coastal hazard area. The Project is east (mauka) of the tsunami inundation zone and is not subject to storm wave action or coastal subsidence.

The highway corridor crosses base flood areas identified on the Federal Flood Insurance Rate Maps at several points. Adequate drainage structures will be provided under the new highway. Channelization between Ali'i Highway and Ali'i Drive is proposed to be provided for Horseshoe Bend-Holualoa Gulch, and between Ali'i Drive and the ocean. This is intended to mitigate existing drainage deficiencies and insure that any flow concentration that could result from the construction of the roadway would not adversely affect downstream properties.

All federal, state and county regulations and programs regarding drainage, including the Federal Flood Insurance Program, will be complied with during Project development to minimize any potential coastal flooding from inland projects.

Civil Defense commented that the Ali'i Highway would be of beneficial impact by mitigating many of the present problems on Ali'i Drive during emergencies that require evacuation, securement, and emergency-vehicle access to Ali'i Drive.

The construction of these improvements will in fact increase coastal safety along this coastline by providing alternative escape routes from the coastal areas makai of the Project limits that are presently only accessible from Ali'i Drive. Therefore, the Project is consistent with the coastal hazards objectives and policies of the CZM program.

### Managing Development

30. The objectives and policies relating to managing development apply to government agencies mandated with implementing the CZM program. To the extent applicable, the Project is consistent with these objectives and policies. Therefore, the Project is consistent with the managing development objectives and policies of the CZM program.

#### Public Participation

31. The objectives and policies relating to public participation apply to government agencies mandated with implementing the CZM program. To the extent applicable, the Project is consistent with these objectives and policies. Therefore, the Project is consistent with the public participation objectives and policies of the CZM program.

#### Beach Protection

32. The objectives and policies relating to beach protection apply to government agencies mandated with implementing the CZM program. To the extent applicable, the Project is consistent with these objectives and policies. The Project area is over 500 feet mauka of the shoreline. Therefore all structures will be situated away from the shoreline area and will not impact any beach resources. Therefore, the Project is consistent with the beach protection objectives and policies of the CZM program.

#### Marine Resources

33. The objectives and policies relating to marine resources apply to government agencies mandated with implementing the CZM program. To the extent applicable, the Project is consistent with these objectives and policies. Therefore, the Project is consistent with the marine resources objectives and policies of the CZM program.

#### General Plan Goals, Policies and Courses of Action

34. The Hawaii County General Plan was adopted by Ordinance No. 89-142. It is a policy document expressing broad goals and policies for the long range development of the Island of Hawaii. It forms the legal basis for subdivision and zoning controls and for the expenditure of funds for public improvement projects.

The transportation element of the General Plan identifies the following:  
Goals:

- Provide a transportation system whereby people and goods can move efficiently, safely, comfortably and economically.
- Make available a variety of modes of transportation which best meets the needs of the County.

Policies:

- A framework of transportation facilities which will promote and influence desired land use shall be established by concerned agencies.



- The agencies concerned with transportation systems shall provide for present traffic and future demands, including mass transit programs for high growth areas.
- The improvement of transportation service shall be encouraged.
- Transportation and drainage systems shall be integrated where feasible.
- The County shall encourage the development of pedestrian and bicycle facilities within designated areas of the community.

North Kona Courses of Action:

- Construct Ali'i Highway from Kuakini Highway to Keauhou.

The Ali'i Highway Project is consistent with the goals, policies and courses of action of the General Plan. Construction of the Project is intended to reduce congestion on the existing road network and provide adequate new capacity in the Kailua to Keauhou corridor through the year 2020. Projected traffic conditions for the existing regional roadway network indicated that Ali'i Drive can no longer adequately serve existing and projected traffic volumes. The Project also specifically implements the course of action calling for the construction of Ali'i Highway between Kuakini Highway (now extended to the Queen Ka'ahumanu extension) and Keauhou.

General Plan Facilities Map

35. The General Plan facilities map identifies the existing and proposed public and cultural facilities, public utilities and safety and transportation systems. The Ali'i Highway corridor is shown on the facilities map as a proposed primary arterial highway. Therefore the Project is consistent with the General Plan Facilities map.

Zoning Code

36. Portions of the Ali'i Highway corridor are within the Single Family (RS), Multiple Family (RM) or Agricultural (A) zoned districts. The Zoning Code provides that public uses are permitted in any district. The Project is therefore consistent with the Hawaii County Zoning Code as contained in Chapter 25 of the Hawaii County Code.

Ecological and Environmental Effects

37. Unlike many other projects in the SMA, no coastal ecosystems are present on the Project site. The majority of the Project site was heavily grazed by cattle and supports only a very few native plants, none of which are cause for concern from an environmental or ecological standpoint. The Project site is poor habitat for native fauna. There are no water features or wetlands supplying habitat for marine, wetland, or shore birds. The archaeological sites located within the Project site are

well protected by the MOA and existing zoning conditions for developments adjacent to the Project. The Project site is set well away from the shoreline and will not affect any scenic views, nor will it detract from the open-space resources of the coast.

#### SMA Review Guidelines

38. All development in the SMA shall be subject to reasonable terms and conditions set by the Planning Department to ensure that:

a. Adequate access, by dedication or other means, to publicly owned or used beaches, recreation areas, and natural reserves is provided to the extent consistent with sound conservation principles.

Access to County and State beaches and recreation areas over existing roadways and shoreline access points will not be adversely affected during construction nor in the long term when the new four-mile long corridor is in full operation. The distance of the Project corridor from the shoreline averages approximately 1,400 feet. Consequently the construction of this Project will not adversely affect access to the shoreline areas and therefore, will be consistent with the public access guideline of the SMA.

b. Adequate and properly located public recreation areas and wildlife preserves are reserved.

There are no coastal recreational resources adversely impacted by the Ali'i Highway development. There are no known wildlife preserves in the project area. The highway corridor is on the average 1,400 feet mauka of the shoreline with its nearest point about 750 feet from the shore. This is a sufficient distance to ensure that identified public recreation areas on the coast will not be adversely impacted by the Project. Therefore the Project is consistent with the reservation of public recreation areas guidelines of the SMA.

c. Provisions are made for solid and liquid waste treatment, disposition and management which will minimize adverse effects upon SMA resources.

The Project will not generate solid or liquid waste other than excess backfill from grading, excavation, earth moving, and other road construction activities. Excess material will either be reused in other forms or trucked to the County landfill. All federal, state and county regulations and programs regarding solid and liquid waste treatment, disposition and management will be complied with during Project development to minimize potential adverse effects on SMA resources. Therefore, the Project is consistent with the solid and liquid waste treatment and disposition guideline of the SMA.

d. Alterations to existing land forms and vegetation, except crops and construction of structures shall cause minimum adverse effect to

water resources and scenic and recreational amenities and minimum danger of floods, wind damage, storm surge, landslides, erosion, siltation or failure in the event of earthquake.

Although the Project will alter existing land forms by introduction of a new four-lane paved highway corridor into the landscape, the alteration will not be significantly adverse to the SMA guidelines.

The route traverses scrub vegetation similar to that found at comparable elevations throughout the region. The danger of natural disasters such as floods, landslides, erosion, siltation, wind damage, or failure in the event of an earthquake will not increase as a result of the Project. The Project will be designed and built to highway standards of the Federal and State Departments of Transportation. Therefore, the Project is consistent in meeting with the land form alteration and danger of natural disasters guidelines of the SMA.

39. The construction of the Ali'i Highway development will not have any substantial ecological or environmental effect on the values that are to be protected in the coastal zone as managed by Chapter 205A, HRS.

There are no coastal ecosystems present within the alignment which is situated a minimum of 750 feet from the shoreline and averages over 1,400 feet in distance from the shoreline. The corridor has been disturbed by cattle grazing and urban development and is a poor habitat for native plants and native fauna. There are no water features or wetlands supplying habitat for marine, wetland, or shore birds. The archaeological features will be protected through the implementation of the MOA. The Project will not adversely affect any scenic views nor will it detract from open-space resources along the coast.

Construction of the highway is intended to reduce congestion on the existing road network and provide adequate new capacity in the Kailua to Keauhou corridor through the year 2020. Projected traffic conditions for the existing regional roadway network indicated that Ali'i Drive can no longer adequately serve existing and projected traffic volumes. Deficiencies related to safety of the roadway will only worsen, as will environmental problems resulting from large numbers of vehicles using the narrow Ali'i Drive.

Diversion of traffic onto Ali'i Highway would increase carrying capacity and improve level of service for vehicles. These improvements will in turn lead to lower automotive pollutant concentrations than will be experienced without the improvements.

There appears to be little likelihood for substantial indirect adverse effects on the coastal zone's ecology or environment. The area makai of Ali'i Highway is either already urbanized or planned for urban development according to the County plans. Any potential impact will be further minimized by the Project's distance from the shoreline and the fact that Ali'i Drive is between this Project and the shoreline.

40. The impact of the Project on the coastal zone will not be substantial, or significantly adverse to the SMA objectives and policies of Chapter 205A, HRS, and Rule 9, Plan. Comm. Rules. The term "substantial" is synonymous with "significant," a term that has a very specific meaning in environmental analysis. The meaning is derived from various statements in the National Environmental Policy Act of 1970. Generally, an impact is significant if it results in an irrevocable commitment to loss or destruction of any natural or cultural resource, or if it curtails the beneficial uses of the environment. Examples of substantial impacts in the coastal zone are major dredging of coral reefs, near shore sewage outfall; zones of large structures that block out coastal views; or depriving the public of reasonable access to or along the shoreline. None of the effects of the Project even approach the scale of impact implied by the term "substantial."

#### Other Considerations

41. The SMA Permit for Kahakai School indicates that the school's access along the Ali'i Highway right-of-way is temporary and shall be terminated upon the development of the Ali'i Highway improvements and development of the areas adjacent to the northwest or northeast boundaries of the school site.

42. Testimony was received regarding the possible use of traffic roundabouts as a method of controlling traffic speed and the provision of landscaped berms to conceal concrete sound barriers.

43. A name change would help to reduce confusion between Ali'i Drive and Ali'i Highway, and would aid in times of emergencies.

44. Additional roadway connections will be allowed to properties adjacent to the Ali'i Highway improvements, as appropriate. The specific location and type of intersection that will be allowed has not been determined at this time.

#### CONCLUSIONS OF LAW

##### Procedural Rulings

1. The following requests for contested cases and the commission's action to deny standing were as follows:

- a. Jacque Wallace--no fees; standing denied.
- b. Jerome and Barbara Keyes--no fees; standing denied (later withdrawn).
- c. Kurt Lindner--no fees; standing denied (later withdrawn).
- d. Robert and Mary Sylva--no fees; standing denied (supporting project).

- e. Art Hosterman--no fees; standing denied.
  - f. Westpac Development Venture--withdrawn by letter dated July 8, 1998.
2. The Commission granted standing to the following parties:
- a. BMFE Limited Partnership--party withdrew by letter dated July 16, 1998.
  - b. Peter Kingman Trust--party withdrew by letter dated July 22, 1998.
  - c. Rachel Soma.
  - d. Kamehameha Investment Corporation.

SMA Use Permit Criteria

3. An SMA use permit is required for the development of the Project.
4. The Planning Commission may approve an SMA use permit for the development of the Project upon making the findings required under Rule 9-11(C)(1)-(3), Plan. Comm. Rules.
5. Under Rule 9-11(C)(1), Plan. Comm. Rules, the Planning Commission must find that the Project will not have any significant adverse environmental or ecological effect except as such adverse effect is minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interest.
6. Under Rule 9-11(C)(2), Plan. Comm. Rules, the Planning Commission must find that the Project is consistent with the objectives and policies as provided in Chapter 205A, HRS, and the SMA guidelines contained in Rule 9-7, Plan. Comm. Rules.
7. Under Rule 9-11(C)(3), Plan. Comm. Rules, the Planning Commission must find that the Project is consistent with the General Plan, Zoning Code, and other applicable ordinances.
8. The Hearing Officers conclude that the Project will not have a significant adverse environmental or ecological effect. Further, any adverse environmental or ecological effect of the Project will be minimized to the extent practicable and is clearly outweighed by public health, safety, or compelling public interests.
9. The Hearing Officers conclude that the Project is consistent with the objectives, policies and guidelines of Chapter 205A, HRS, and the SMA guidelines set forth in Rule 9-7, Plan. Comm. Rules.

10. The Hearing Officers conclude that the Project is consistent with the General Plan, the Zoning Code, and the zoning ordinances specifically applicable to the Project site.

### DECISION AND ORDER

After review of all of the testimony and evidence, the Report of Contested Case Hearing Officers, Findings of Fact and Conclusions of Law, Decision and Order and the parties' comments and objections thereto filed herein, and the arguments of the parties at the August 20, 1998, hearing, the County of Hawaii Planning Commission hereby grants Special Management Area (SMA) Use Permit 386 to the County of Hawaii, Department of Public Works, to allow the construction of the Ali'i Highway and related improvements, on approximately 61.4 acres of land identified as Tax Map Keys 7-5-17:005; 7-5-19:001, 013, 040, 041, 043-045; 7-5-20:001, 069-073, 076; 7-6-13:008, 009, 037; 7-6-14:001, 019, 020; 7-6-15:001, 005-007; 7-6-16:001, 027; 7-6-17:001, 004, 007, 068; 7-6-18:029-034, 107-110; 7-6-19:067-074, 092, 093, 098; 7-6-25:016; 7-7-04:002, 011, 043, 047, 056; 7-7-08:011, 021, 030, 031, 096, 099; 7-8-10:002, 003, 035, 040, 052, 078, 093; and 7-8-14:090, 093, situated between Kuakini Highway/Queen Ka'ahumanu Highway and Ali'i Drive and extending from Kahului 1st to Keauhou, North Kona, County and State of Hawaii, subject to the following conditions:

1. DPW, its successors and assigns, shall be responsible for complying with all stated conditions of approval.
2. Construction plans shall identify proposed mauka and makai access intervals; noise mitigation measures in conformance with FHWA noise criteria which may include, but not limited to, landscaping, reduction of speed limits, concrete barriers, etc., and buffer areas if necessary for the archaeological/cultural resources.
3. Construction of the proposed development shall be initiated within five (5) years from the date of final subdivision approval.
4. Drainage improvements shall be constructed in a manner meeting with the requirements of Chapters 10 and 27, Hawaii County Code.
5. All Federal, State and County regulations and programs regarding drainage, including the Federal Flood Insurance Program, shall be complied with during project development.
6. During construction, mitigative measures shall be taken to minimize the potential of fugitive dust and run-off sedimentation. Such measures shall be in compliance with construction industry standards and practices and in accordance with Department of Health requirements.
7. Appropriate phases and recommendations of the joint Memorandum of Agreement (MOA), dated July 1987, and relating to archaeological resources shall be implemented prior to the issuance of any land alteration permits.

8. Appropriate buffers shall be established for the Keakealani Wahine Complex through procedures outlined in the MOA and construction barriers shall be installed prior to any land alteration activity and shall remain in place during construction.

9. Should any remains of historic and cultural sites (such as rock walls, terraces, platforms, midden or human burials), not identified in surveys, be encountered, work in the immediate area shall cease and the provisions of the MOA shall be complied with.

10. An Emergency Evacuation Signage Plan shall be developed by DPW in consultation with the Civil Defense Agency.

11. That a landscaped median be designed along the entire length of the Ali'i Project.

12. That landscaped berms be implemented with concrete sound barriers where possible.

13. That the name of Ali'i Highway be revised to avoid confusion.

14. Comply with all other laws, rules, regulations and requirements of the affected agencies for the proposed development.

15. An initial extension of time for the performance of conditions of the permit may be granted by the Planning Director upon the following circumstances:

A. The nonperformance 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, Zoning Code or Special Management Area Guidelines.

C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.

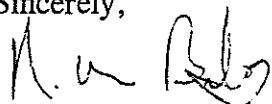
D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within the one year may be extended for up to one additional year).

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.

Donna Fay K. Kiyosaki, P.E.  
Chief Engineer  
Department of Public Works  
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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

LAH06.PC

cc: Department of Water Supply  
County Real Property Tax Division  
West Hawaii Office  
DBEDT-Office of Planning, CZM Program (w/Background)  
Department of Land and Natural Resources  
Kazu Hayashida, Director/DOT-Highways, Honolulu  
Mr. Norman Hayashi  
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Ms. Colette Sakoda  
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