



## County of Hawai'i

### LEEWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

JUL 02 2012

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 12-000049)  
Request: Financial Institution  
Revocation of SMA No. 05-000001  
Applicant: Next Design, LLC  
Tax Map Key: 7-5-005:061

The Leeward Planning Commission at its duly held public hearing on June 21, 2012, voted to approve the above-referenced request to allow the development of a financial institution complex. The Commission subsequently revoked SMA No. 05-000001 that previously allowed the development of a Kentucky Fried Chicken restaurant on the subject parcel. The property is located at the northwestern corner of the Palani Road-Kuakini Highway intersection, Kailua-Kona, Hawai'i.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawai'i Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawai'i, 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 proposed 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 includes:

- Two-story structure, approximately 2,932 square feet of ground floor area with a second story of approximately 1,794 square feet. The total area of the proposed structure will be 4,726 square feet with a height of 28 feet 0 inches
- drive-through window, as well as accommodations for walk in visitors
- transaction counter area
- a vault
- staff support areas
- open work areas for employees
- indoor and outdoor dining area
- 18 parking stalls, 1 ADA accessible
- extensive landscaping around the perimeter of the property.

The cost of the improvements is estimated at approximately \$2,000,000.00 with an estimated completion in early or mid 2013. The property is located within the Kailua Village Special District. At its May 8, 2012, meeting, the Kailua Village Design Commission voted to recommend approval of the request.

The proposed project will not create significant adverse impacts upon nearby and adjacent properties as the immediate area has been developed with hotels and commercial uses. Surrounding properties are zoned Village Commercial (CV-10) and Resort (V-.75). The King Kamehameha's Kona Beach Hotel is located adjacent to the property to the southwest (makai). The Kona Seaside Hotel is located to the east across Palani Road. Quinn's Restaurant, two commercial complexes and office uses are within close proximity to the site. Given the project's proposed extensive landscaping, the visual impact to the surrounding areas will not be significant. As the property was formerly the site of a Chevron Service Station, the applicant has provided information from the State Department of Health Solid and Hazardous Waste Branch that the property does not pose a threat to public health, environment or natural resources. In their response letter dated May, 23, 2012, the applicant states that "The State Department of Health's regulations regarding dust, noise, and air quality controls will be adhered to by the contractor. Further, the waste disposal recommendations relative to any green waste (which is not present) or other material on the property will be complied with."

While the proposed development will not have a direct impact upon coastal recreational resources, review of developments within the Special Management Area must also consider the cumulative impacts of such developments upon these resources. The proposed development will not substantially affect scenic vistas or viewplanes of nearby residents nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The property is located at the intersection of Kuakini Highway and Palani Road and will not restrict access to coastal recreational resources along the shoreline nor will it restrict existing visual viewplanes. Any development of the site will generate some visual impact. However, the surrounding area has been developed with hotels and commercial uses, and existing landscape makai of the property obstructs the views of the coastline in this general area. The viewplane from the shoreline towards the property will not be impacted as surrounding properties to the south and west are developed with hotels with various commercial uses. According to the Department of Public Works, Flood Zone "AE" affects the parcel. However, a Letter of Map Revision (Case 06-09-B685P) has removed the subject parcel from the special flood hazard area regulated under Chapter 27. Of note is the property's location within the Tsunami Evacuation Area, whose mauka boundary is defined by Kuakini Highway. Approval of this permit is subject to the preparation of an Emergency Response Plan prior to the issuance of a certificate of occupancy for the project.

Air quality in the area is predominantly affected by emissions from natural and vehicular sources. Both short-term air and noise quality impacts associated with the construction of the proposed improvements are expected during construction, especially during grubbing and grading activities. These impacts can be mitigated through the utilization of best management practices. Given the limited nature of the improvements, no significant long-term air and noise quality impacts are anticipated.

**The proposed project 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.** County water is available to the site. The project will connect to the County sewer system. Any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements consistent with the requirements of the Department of Public Works. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations and proper construction practices. Air emissions generated during the construction phase for the proposed project can be mitigated by existing construction regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon nearby coastal resources or the surrounding environment. Conditions of approval will be included relating to wastewater, solid waste and public safety to ensure that impacts on coastal resources are minimized.

As the site has been extensively developed in the past as a service station and subsequently cleared, no commissioned archaeological survey was conducted. By letter dated February 11, 2005, the Department of Land and Natural Resources Historic Preservation Division has indicated that "residential development/urbanization has altered the land. Thus, no historic properties will be affected by this undertaking." The property was cleared in the past for a service station, and there is no vegetative cover. As such, the applicant believes that no rare or endangered flora or fauna species are present on the site.

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. The property does not front the shoreline and will not be impacted by coastal hazard and beach erosion. No scenic or open space resources to the shoreline or coastal view plane or coastal ecosystem will be negatively impacted by the proposed action.

**The proposed development is consistent with the County General Plan, Kona Community Development Plan and the Zoning Code.** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map establishes the basic urban and non-urban form for areas within the County. The subject area is designated Medium Density Urban by the LUPAG map. The Medium Density Urban designation includes village and neighborhood commercial and residential and related functions. Thus, the proposed development would be consistent with the LUPAG Map designation. The property is presently zoned Village Commercial 10,000 square feet (CV-10) by the County.

This proposed development would complement, among others, the goals, policies and standards of the Land Use and Economic Elements of the General Plan. The proposed project will be in harmony with the character of the surrounding neighborhood and result in an intensity of land utilization no higher than as permitted or as otherwise specified for the district in which this proposed development occurs. The Master Plan for Kailua-Kona, adopted by Resolution No. 371 98 effective September 6, 1996, identifies this area for commercial uses.

The property is located within the Kona Community Development Plan's Kailua Village Redevelopment Transit Oriented Development (TOD). While the proposed development is not a part of an existing master plan for the TOD, the proposed development is consistent with the permitted uses of the existing zoning and the KCDP does not take away the development opportunities of a parcel's existing zoning.

The subject property is situated within the Kailua Village Special District and the project was presented to the Kailua Village Design Commission, who approved the proposed project at its May 18, 2012 meeting, subject to specific recommendations, which the Applicant must consider as part of plans to be submitted to the Planning Department for plan approval review.

Two accesses are proposed, one on Palani Road and the other on Kuakini Highway. The access from the property to Kuakini Highway is proposed to be restricted to right-turns only. Palani Road is two-lane County roadway with an approximate right-of-way of 60 feet with curb, gutters and sidewalk. Kuakini Highway is a two-lane road within an 80-foot right-of-way. The portion of the highway mauka of the property has been improved to a four-lane roadway with curb, gutter, sidewalks and bicycle lanes between Palani Road and Hualalai Road.

The proposed project would add to the cumulative traffic impact on Kuakini Highway and Palani Road. The applicant notes that the project will attempt to mitigate the traffic impact by locating the primary access along Palani Road as far from the intersection as possible, and restricting the movement from the site to Kuakini Highway to right-turns only.

In view of the recent Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka 'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed. These rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: As the site has been entirely altered and cleared in the past, no archaeological, faunal or flora surveys were conducted for the project site. The property remains in a significantly altered form and the Applicant anticipates that

The valuable cultural, historical, and natural resources found in the area: The property was used in the recent past as a site for a service station; thus the likelihood of any valuable resources on the site is remote. By letter dated February 11, 2005, the DLNR-HPD has indicated that "residential development/urbanization has altered the land. Thus, no historic properties will be affected by this undertaking."

Possible adverse effects or impairment of valued resources: The property was the site of a service station and fully improved, thus the impact to valued resources on the site, if any, is remote.

Feasible actions to protect native Hawaiian rights: The property is located at the intersection of Kuakini Highway and Palani Road, and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic



resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. As stated by the applicant, no gathering is taking place on the site. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

Based on the above findings, it is determined that the proposed development 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 may initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit.
2. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, paved driveway access and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements) as well as consider the recommendations of the Kailua Village Design Commission as detailed in its May 15, 2012 letter.
3. The improvements shall be constructed in a manner that is substantially representative of plans and details as contained in the Special Management Area Use Permit application dated March 2012 (Planning Department Exhibits 1 and 2)
4. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
5. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the issuance of a construction permit.

Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works, prior to receipt of a Certificate of Occupancy.

6. Access to Kuakini Highway shall be limited to right-in/right-out only. If deemed necessary, to implement the left turn restriction, the applicant shall install a left turn prohibiting barrier on Kuakini Highway meeting with the approval of the Department of Public Works at no cost to the County.
7. The proposed development shall connect to the County sewer system.
8. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
9. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
10. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
11. An Emergency Response Plan shall be submitted to the Hawai'i County Civil Defense Agency for review and approval prior to the issuance of Certificate of Occupancy.
12. Should any undiscovered 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 mitigation measures have been taken.
13. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
14. An initial extension of time for the performance of conditions within this permit may be granted by the Planning Director upon the following circumstances:

Mr. Sidney Fuke  
Page 8

- 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 the granting of this 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).
- E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

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 Daryn Arai of the Planning Department at 961-8288.

Sincerely,

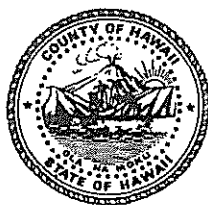


Geraldine Giffin , Chairman  
Leeward Planning Commission

Lnextdesign01lpc

cc: Next Design, LLC  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
Department of Land and Natural Resources/HPD  
Ms. April Surprenant  
Zoning Inspector  
Final Plan Approval  
Mr. Gilbert Bailado





## County of Hawai'i

### PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720  
Phone (808) 961-8288 • Fax (808) 961-8742

April 15, 2005

Mr. Sidney Fuke  
100 Pauahi Street, Suite 212  
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area Use Permit Application (SMA 05-001)  
Request: Establishment of a Restaurant (Kentucky Fried Chicken)  
Applicant: Next Design, LLC  
Tax Map Key: 7-5-5:61

The Planning Commission at its duly held public hearing on March 18, 2005, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 455 is hereby issued to allow the establishment of a restaurant (Kentucky Fried Chicken) on 18,997 square feet of land. The property is the former Chevron service station site located at the northwestern corner of the Palani Road – Kuakini Highway intersection, 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 proposed 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 includes:

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Mr. Sidney Fuke

Page 2

- single-story, approximately 3,060-square foot structure with a height of 20 feet 10 inches
- drive-through window
- indoor and outdoor dining area
- kitchen, restroom, storing and office areas
- 12 parking stalls, 2 ADA accessible
- minimum setback of 16 feet along the north end of the property
- setback between 24 and 28 feet along the Kuakini Highway frontage
- setback of approximately 50 feet from the Palani Road frontage
- setback between 16 to 100 feet at the makai or west end of the site
- extensive landscaping around the perimeter of the property.

The cost of the improvements is estimated at approximately \$2,000,000.00 with an estimated completion in late 2005 or early 2006. The property is located within the Kailua Village Special District. At its May 26, 2004 meeting, the Kailua Village Design Commission voted to recommend approval of the request.

The proposed project will not create significant adverse impacts upon nearby and adjacent properties as the immediate area has been developed with hotels and commercial uses. Surrounding properties are zoned Village Commercial (CV-10) and Resort (V-.75). The King Kamehameha's Kona Beach Hotel is located adjacent to the property to the southwest (makai). The Kona Seaside Hotel is located to the east across Palani Road. Quinn's Restaurant, two commercial complexes and office uses are within close proximity to the site. Given the project's proposed extensive landscaping, the visual impact to the surrounding areas will not be significant. As the property was formerly the site of a Chevron service station, the applicant has provided information from the State Department of Health Hazard Evaluation and Emergency Response Office that the property does not pose a threat to public health, environment or natural resources. In a letter dated January 23, 2004, the Department of Health has stated that "the department has determined that the site does not pose a human health or environmental threat, and that no further action is necessary at this site. We have reviewed the information and data submitted regarding the removal of the hoist, the grease trap and the stained soil by excavation at this site. Based on this information, the site requires no further response action at this time."

While the proposed development will not have a direct impact upon coastal recreational resources, review of developments within the Special Management Area must also consider the cumulative impacts of such developments upon these resources. The proposed development will not substantially affect scenic vistas or viewplanes of nearby residents nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The property is located at the intersection of Kuakini Highway and Palani Road and will not restrict access to coastal recreational

resources along the shoreline nor will it restrict existing visual viewplanes. Any development of the site will generate some visual impact. However, the surrounding area has been developed with hotels and commercial uses, and existing landscape makai of the property obstructs the views of the coastline in this general area. The viewplane from the shoreline towards the property will not be impacted as surrounding properties to the south and west are developed with a hotel various commercial uses. According to the Department of Public Works, Flood Zone "AE" affects the parcel. A Letter of Map Revision (Case 03-09-0554P) is pending approval, and if approved, will remove the parcel from the special flood hazard area regulated under Chapter 27.

Air quality in the area is predominantly affected by emissions from natural and vehicular sources. Both short-term air and noise quality impacts associated with the construction of the proposed improvements are expected during construction, especially during grubbing and grading activities. These impacts can be mitigated through the utilization of best management practices. Given the limited nature of the improvements, no significant long-term air and noise quality impacts are anticipated.

The proposed project 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. County water is available to the site. The project will connect to the County sewer system. Any potential runoff or discharge that could reach ocean waters can be handled by on-site improvements consistent with the requirements of the Department of Public Works. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations and proper construction practices. Air emissions generated during the construction phase for the proposed project can be mitigated by existing construction regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects upon nearby coastal resources or the surrounding environment. Conditions of approval will be included relating to wastewater, solid waste and public safety to ensure that impacts on coastal resources are minimized.

As the site has been entirely cleared in the past, no commissioned archaeological survey was conducted. By letter dated February 3, 2005, the applicant has requested a letter of "no effect" from the State Department of Land and Natural Resources Historic Preservation Division (DLNR-HPD). By letter dated February 11, 2005, the Department of Land and Natural Resources Historic Preservation Division has indicated that "residential development/urbanization has altered the land. Thus, no historic properties will be affected by this undertaking." The property was cleared in the past for a service station, and there is no vegetative cover. As such, the applicant believes that no rare or endangered flora or fauna species are present on the site.

There is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical or native resources in the area. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. The property does not front the shoreline and will not be impacted by coastal hazard and beach erosion. No scenic or open space resources to the shoreline or coastal view plane or coastal ecosystem will be negatively impacted by the proposed action.

The proposed development is consistent with the County General Plan and the Zoning Code. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map establishes the basic urban and non-urban form for areas within the County. The subject area is designated Medium Density Urban by the LUPAG map. The Medium Density Urban designation includes village and neighborhood commercial and residential and related functions. Thus, the proposed development would be consistent with the LUPAG Map designation. The property is presently zoned Village Commercial 10,000 square feet (CV-10) by the County.

This proposed development would complement, among others, the goals, policies and standards of the Land Use and Economic Elements of the General Plan. The proposed project will be in harmony with the character of the surrounding neighborhood and result in an intensity of land utilization no higher than as permitted or as otherwise specified for the district in which this proposed development occurs. The Master Plan for Kailua-Kona, adopted by Resolution No. 371 98 effective September 6, 1996, identifies this area for commercial uses.

Two accesses are proposed, one on Palani Road and the other on Kuakini Highway. The access from the property to Kuakini Highway is proposed to be restricted to right-turns only. Palani Road is two-lane County roadway with an approximate right-of-way of 60 feet with curb, gutters and sidewalk. Kuakini Highway is a two-lane road within an 80-foot right-of-way. The portion of the highway mauka of the property is currently being improved to a four-lane roadway with curb, gutter, sidewalks and bicycle lanes between Palani Road and Hualalai Road. The estimated date of completion of the improvements is 2006.

The proposed project would add to the cumulative traffic impact on Kuakini Highway and Palani Road. The Police Department expressed concerns regarding the high volume of traffic at the intersection. The applicant notes that the project will attempt to mitigate the traffic impact by locating the primary access along Palani Road as far from the intersection as possible, and restricting the movement from the site to Kuakini Highway to right-turns only.

In view of the recent Hawaii State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed. These rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: As the site has been entirely cleared in the past, no commissioned archaeological survey or flora/fauna study was conducted. By letter dated February 3, 2005, the applicant has requested a letter of "no effect" from the State Department of Land and Natural Resources Historic Properties Division (DLNR-HPD).

The valuable cultural, historical, and natural resources found in the area: The property was used in the recent past as a site for a service station; thus the likelihood of any valuable resources on the site are remote. However, the applicant has requested a "no effect" letter from DLNR-HPD. By letter dated February 11, 2005, the DLNR-HPD has indicated that "residential development/urbanization has altered the land. Thus, no historic properties will be affected by this undertaking."

Possible adverse effects or impairment of valued resources: The property was the site of a service station and fully improved, thus the impact to valued resources on the site, if any, are remote.

Feasible actions to protect native Hawaiian rights: The property is located at the intersection of Kuakini Highway and Palani Road, and will not be impacted by coastal hazard and beach erosion. There are no identified recreational resources, historic resources, public access to the shoreline or mountain areas, scenic and open space preserves, coastal ecosystems, marine resources or other natural and environmental resources in the area. As stated by the applicant, no gathering is taking place on the site. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

Based on the above findings, it is determined that the proposed development 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 may initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit.
2. Construction of the proposed improvements shall be completed within five (5) years from the effective date of this permit. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Chapter 25-2-70, Chapter 25 (Zoning Code), Hawaii County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, paved driveway access and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).
3. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
4. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the issuance of a construction permit. Drainage improvements, if required, shall be constructed, meeting with the approval of the Department of Public Works, prior to receipt of a Certificate of Occupancy.
5. The proposed development shall connect to the County sewer system.
6. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.
7. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawaii County Code.
8. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
9. An Emergency Response Plan shall be submitted to the Hawaii County Civil Defense Agency for review and approval prior to the issuance of Certificate of Occupancy.



10. Should any undiscovered 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 mitigation measures have been taken.
11. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
12. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of this permit. The report shall include, but not be limited to, the status of the development and extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
13. An initial extension of time for the performance of conditions within this 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 the granting of this 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).
  - E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

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. Sidney Fuke  
Page 8

Should you have any questions, please contact Norman Hayashi of the Planning Department at 961-8288.

Sincerely,

*Wahneema Lubiano for*  
Fred Galdones, Chairman  
Planning Commission

Lnextdesignsma05-001pc

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
Department of Land and Natural Resources/HPD-Kona  
Rodney Haraga, Director/DOT-Highways, Honolulu  
Ms. Alice Kawaha  
Zoning Inspector – Kona  
Plan Approval Section  
Next Design, LLC