



## County of Hawai'i

### PLANNING COMMISSION

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July 20, 2009

Mr. Gregory R. Mooers  
P.O. Box 1101  
Kamuela, HI 96743

Dear Mr. Mooers:

Special Management Area Use Permit Application (SMA 09-000032)  
Request: Exterior Renovations to King Kamehameha's Kona Beach Hotel  
Applicant: Gregory R. Mooers  
Tax Map Key: 7-5-6:20, 21, 24 & 32; 7-5-5:62, 66, and 75

The Leeward Planning Commission at its duly held public hearing on June 30, 2009, voted to approve the above-referenced request for a Special Management Area Use Permit to allow the renovation of the King Kamehameha's Kona Beach Hotel, its commercial area, and related parking and landscaping improvements on approximately 12.89 acres in the Special Management Area. The project site is the existing King Kamehameha's Kona Beach Hotel complex, Kailua-Kona, North Kona, Hawai'i.

Approval of this request is based on the following:

The applicant requests a Special Management Area Use Permit to renovate the existing King Kamehameha's Kona Beach Hotel by demolishing the poolside retail portion of the central arcade structure located between the two hotel towers, removing the existing pool and bar area and replacing with a pool and pool deck located closer to the central hotel core, adding a terrace, service corridor and pre-function vestibule area outside the conference and banquet rooms, demolishing the maintenance greenhouse and tennis courts to accommodate additional parking stalls, and various minor landscape and hardscape improvements. The proposed renovation activities would not occur makai of the existing curved concrete walkway near the shoreline. Additionally, no work would be done in the vicinity of the historic sites associated with Ahu'ena Heiau and Kamakahonu.

The existing hotel was constructed prior to the adoption of the Coastal Zone Management (CZM) statutes and Planning Commission Rule 9 relating to the Special Management Area; however, an SMA Use Permit is required for the proposed exterior renovations.

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, restore the natural resources of the coastal zone areas. Therefore, special controls on development within the SMA are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to insure that adequate public access is provided to public-owned or used beaches, recreation areas, and natural reserves, by dedication or other means. The grounds for approving an SMA permit are based upon the following criterion listed in bold type:

**The proposed development will not have any substantial 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.** An environmental assessment (EA) was completed to determine impacts of the proposed renovation project on the physical environment, socioeconomic and cultural resources, and infrastructure. With implementation of the following mitigation measures, the County Planning Department concluded that no significant environmental or ecological effects would occur and a Finding of No Significant Impact (FONSI) determination was issued for the final EA on April 21, 2009:

- *Drainage and Flooding:* The hotel will continue to maintain evacuation plans for coastal flooding and potential tsunami inundation, as well as maintain the required flood insurance. All renovations will comply with applicable sections of Chapter 27, Floodplain Management, Hawai'i County Code for the VE and AE flood zone, as well as Chapter 10 of the County Code related to Erosion and Sedimentation Control. Any increase in the amount of storm water runoff due to construction of impermeable surfaces will be contained on-site via engineered drainage systems that will promote infiltration of storm water runoff, as required by County Code.
- *Water Quality:* The contractor shall perform all earthwork and grading in conformance with Chapter 10, Erosion and Sediment Control, Hawai'i County Code. Because the activities will disturb more than one acre of soil, a National Pollutant Discharge Elimination System (NPDES) permit will be obtained, and Storm Water Pollution Prevention Plan (SWPPP) will be completed by the contractor before the project commences. The SWPPP will include a number of best management practices (BMP's) that will be implemented throughout the project.

- *Air Quality and Noise:* The contractor will prepare a dust control plan compliant with provisions of HAR Chapter 11-60.1, Air Pollution Control and Chapter 11-60.1-33, Fugitive Dust. Landscaping will be established as early in the construction schedule as possible to lower the potential for fugitive dust emissions. In cases where construction noise is expected to exceed Department of Health (DOH) “maximum permissible” property line noise levels, contractors will obtain a permit in compliance with DOH rules and regulations, prior to construction.
- *Hazardous Substances:* Prior to demolition, all work areas will be surveyed for building materials that contain hazardous substances, and if hazardous substances are identified they will be removed according to applicable laws.
- *Cultural and Historic Resources:* Protective measures, which may include temporary fencing, contractor education, and monitoring, will be developed in coordination with Ahu‘ena Heiau Inc. and other concerned parties to protect the existing features of Kamakahonu during demolition and construction. Archaeological monitoring will occur during subsurface demolition of development activities. An archeological monitoring plan and interim preservation plan for cultural sites will be submitted to the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) for review and approval prior to application for demolition or ground-altering permits. Public lateral access along the bay and beach to Ahu‘ena Heiau will not be affected as a result of construction, so there will be no times during which the heiau will not be accessible to cultural practitioners.
- *Traffic and Parking:* In order to minimize traffic impacts, heavy equipment will be moved to and from the project site during off-peak hours only.

**The proposed development will not create significant adverse impacts upon nearby and adjacent properties.** Surrounding properties are mainly commercial and residential in nature. The applicant proposes exterior renovations to a hotel that has existed on the subject properties since 1975. Short-term noise quality impacts during renovation activities are expected. Demolition and construction activities will be limited to daytime hours to mitigate noise impacts. In addition, short-term air quality impacts area also expected, however these impacts will be mitigated through the utilization of best management practices as outlined in a dust control plan. All development-generated runoff will be disposed of on-site and will not be directed toward any adjacent properties.

Renovation activities will not occur near Ahu‘ena Heiau or its associated historic sites located on the adjacent properties to the south of the hotel. Public access to the beach and access to historic sites for cultural practitioners will remain unimpeded during

construction. The project is not anticipated to result in cumulative impacts, as it involves the renovation of an existing structure. Therefore, no significant long-term adverse impacts to surrounding properties are anticipated.

**The proposed project is consistent with the objectives and policies provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure.** Kamakahonu beach and cove are used regularly by the public and native Hawaiians for various recreational activities such as swimming, fishing, and canoe practice. Access to the shoreline is available from Ali'i Drive and Palani Road over the State property north of Kailua Pier. Public shoreline access is not currently available through the hotel property. No construction will take place makai of the existing curved concrete walkway near the shoreline and public access to the beach and cove will not be affected. However, there are very few free public parking spaces in the Kailua Village area to allow for easy access to the beach for recreation purposes. Approximately 179 surplus parking stalls will be created in the controlled-access fee parking lot during the hotel renovation. A policy of HRS, Chapter 205A is to provide and manage adequate public access, consistent with conservation of natural resources, to and along shorelines with recreational value. To further support this policy, a condition of approval will require the applicant provide thirty (30) free public parking stalls in the controlled-access fee parking lot to be used as public shoreline access parking, and to allow access from these parking stalls to the shoreline through the hotel property.

There are significant cultural practices and resources identified for the area immediately surrounding the hotel. However, no renovation work will take place in the vicinity of the historic sites associated with Kamakahonu and Ahu'ena Heiau and access to these sites will remain open to cultural practitioners during renovation of the hotel. In order to avoid impacts to these significant features during renovation of the hotel, protective measures will be developed and incorporated into an interim preservation plan. This plan will be developed in consultation with concerned parties including but not limited to Ahu'ena Heiau, Inc. and will be reviewed and approved by DLNR-SHPD prior to any ground disturbing work. Although the location of the current hotel has been repeatedly subject to major ground disturbing activities in the past, it is possible that intact subsurface archaeological remains could be encountered during renovation activities. To mitigate potential effects to possible buried archaeological resources, archaeological monitoring will be conducted during all ground altering activities. In addition, renovation of the hotel will convert over 11,000 square feet on the ground floor into a cultural center/artifacts museum and lecture hall exhibiting the cultural artifacts currently displayed throughout the hotel.

The project site is located in flood zones AE and VE, areas determined to be special flood hazard areas inundated by a 100-year flood and subject to high velocity

waters, including coastal and tidal inundation or tsunamis. To reduce hazard to life and property due to coastal hazards, the proposed project is subject to the requirements of Chapter 27 - Flood Control, of the Hawai'i County Code. The hotel will continue to maintain evacuation plans for coastal flooding and potential tsunami inundation, as well as maintain the flood insurance required by the Federal Flood Insurance Program.

To address the potential impacts of soil erosion and water quality on marine resources and coastal ecosystems the applicant will implement best management practices as part of the NPDES permit process and comply with Chapter 10, Erosion and Sediment Control, Hawai'i County Code. In a memo dated May 27, 2009 the Department of Environmental Management (DEM) has also recommended that the applicant rehabilitate and/or replace the existing sewer lines on the hotel property due to the high chloride levels that the hotel wastewater contributes to the County sewer system. This recommendation will be included as a condition of approval.

The hotel renovations will not adversely impact scenic or open space resources, and in fact, demolition of the retail area between the two hotel towers will open the view plane from the shoreline looking mauka. Relocation of the pool area further mauka will increase the separation between the public shoreline recreation area and the private recreation area. Landscaping improvements will incorporate native species as recommended by the Kailua Village Design Commission.

**The proposed development is consistent with the County General Plan, Kona Community Development Plan (CDP), Zoning Code and other applicable ordinances.** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designations for the project site are Resort Node and Medium Density Urban. The Resort Node designation allow for a mix of visitor-related uses such as hotels, condominium-hotels (condominiums developed and/or operated as hotels), single family and multiple family residential units, golf courses and other typical resort recreational facilities, resort commercial complexes and other support services. The Medium Density Urban designation allows for village and neighborhood commercial and single family and multiple family residential and related functions (multiple family residential -- up to 35 units per acre). Ahu'ena Heiau, associated historic sites and the area along the shoreline are located in an area designated Open on the LUPAG map, which is intended to be used for parks and other recreational areas, historic sites, and open shoreline areas.

The proposed development will complement the following goals, policies and standards of the Land Use and Economic elements of the General Plan.

- Promote and encourage the rehabilitation and the optimum utilization of resort areas that are presently serviced by basic facilities and utilities.

- Improve Kailua Village to maintain its viability as a popular visitor destination.
- Coastal resort developments shall provide public access to and parking for beach and shoreline areas.

Page 4-126 of the Kona CDP specifically refers to the positive effect renovation of the hotel will have on enhancing the economic viability of the Kailua village center. Without substantial improvements to this area, similar to the proposed project, visitors would continue to stay at resorts outside of Kailua Village which would be economically detrimental to nearby businesses. The revitalization of Kailua Village is listed as a high priority in the Kona CDP and as a goal in the General Plan's Economic element.

Renovation of the existing hotel, restaurant, and commercial areas is consistent with the County zoning, as these uses are permitted on Hotel-Resort (V-.75) zoned lands. Based upon the above information, the proposal conforms to the County General Plan, Kona CDP and County zoning.

In addition, the project site is located within an area adequately served with essential services and facilities such as water, sewer, transportation systems and other utilities. An increase in use of the existing utilities and services is not anticipated as the proposed renovations will not increase the capacity of the hotel. However, the applicant will prepare and implement a Solid Waste Management Plan to address demolition waste.

**The development will to the extent feasible, reasonably protect native Hawaiian rights if they are found to exist.** In view of the Hawai'i State Supreme Court's "PASH" and "*Ka Pa'akai O Ka'Aina*" decisions, the issue relative to native Hawaiian rights, such as 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: The effect of the proposed hotel renovation project on cultural and historic resources was presented in a Final Environmental Assessment (EA) dated April 2009. The EA included a *Cultural Impact Assessment for Renovations to the King Kamehameha Kona Beach Hotel* prepared by Robert B Rechtman, Ph.D. and Herbert Poepoe, B.A. in August 2008.

The valuable cultural, historical, and natural resources found in the area: A portion of the hotel and grounds are located on a portion of the National Historic Landmark Site of Kamakahonu (Site 10-27-7002). It is known from historical sources, archaeological investigation, and oral information that the remaining features of Kamakahonu of archaeological and cultural significance include the reconstructed features of Ahu'ena Heiau, Hale nana mahina 'ai, a mortuary platform, and what remains

of the perimeter walls and a reburial feature currently located within a naupaka hedge to the north of the mortuary platform. Ahu'ena Heiau and Hale nana mahina 'ai, along with the cultural activities that take place there, are considered sacred by Hawaiian cultural practitioners. The project site contains introduced plants utilized in landscaping such as crotons, coconuts, kukui, bougainvillea, banana, ti, Madagascar periwinkle and plumeria. Several common native coastal species including naupaka, milo and hala are present in the landscaping.

Possible adverse effects or impairment of valued resources: Renovation activities are not proposed near the Ahu'ena Heiau complex. Although the location of the current hotel has been repeatedly subject to major ground disturbing activities in the past, it is possible that intact subsurface archaeological remains could be encountered during renovation activities. There is no evidence that the flora in the area are particularly desired or used for cultural practices. Additionally, there are no rare, endangered, or threatened species that use the project area as a critical habitat.

Feasible actions to protect native Hawaiian rights: In a letter dated January 29, 2009, the DLNR-SHPD recommended that archaeological monitoring be conducted during all ground altering activities associated with the renovation. Given the high cultural sensitivity of the general area, they also recommended that a plan for interim preservation measures addressing the Ahu'ena Heiau complex be completed and implemented in consultation with interested parties. Conditions of approval have been added to address the recommendations made by the DLNR-SHPD and to provide cultural practitioners access to the area during renovation activities. A condition of approval has been added to protect any unidentified cultural, historical, and natural resource in the event any are encountered during construction.

With implementation of the conditions of approval, the proposed action will not affect traditional Hawaiian rights.

Based on the above findings, the proposed hotel renovation project will not have 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:

1. The applicant(s), its successor or assigns shall be responsible for complying with all stated conditions of approval.

2. The applicant shall consolidate any parcels where new structures will be constructed across property lines, in order to meet Zoning Code setback requirements.
3. All renovation activities shall be completed within five (5) years from the effective date of this permit. Prior to commencing renovation activities, the applicant shall secure Final Plan Approval for the proposed project from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and proposed structures, landscaping, paved driveway access and parking stalls associated with the proposed development. Landscaping shall be provided as required by Planning Department Rule 17 (Landscaping Requirements).
4. During demolition and construction, lateral shoreline access shall remain open and unimpeded for gathering purposes and other cultural practices at the Ahu'ena Heiau complex and to the general public for recreation purposes at Kamakahonu beach and cove. Access to the Heiau area will continue to comply with the agreement recorded January 10, 1991 between the hotel operator and the Board of Land and Natural Resources.
5. Within one (1) year from the effective date of this permit the applicant shall submit a public access plan to the Planning Department. The applicant shall implement the plan upon approval by the Planning Department. The plan shall include, but not be limited to, the following requirement:
  - Upon completion of hotel renovations, the applicant shall provide a minimum of eight (8) free parking stalls outside of the existing parking booth for the public to use to access the shoreline, and shall allow access from those stalls along Palani Road to the shoreline.
  - Allow the continued storage of canoes on the leased State property next to the project site.
  - If the Planning Department in the future is able to acquire an access easement over parcel (3) 7-5-005:012, the applicant shall provide a public access easement (in a location mutually agreed upon) to the County of Hawai'i across the hotel properties to facilitate a link between the lateral shoreline access trail at Kona Bay Estates and Ali'i Drive, provided that the agreement recorded January 10, 1991 between the hotel operator and the Board of Land and Natural Resources will govern all access to the Heiau area.



6. The applicant shall continue to work with the Department of Environmental Management to identify the source of irregularities related to the applicant's sewer system. Prior to issuance of a Certificate of Occupancy, the applicant shall replace and/or rehabilitate any deficiencies to the existing sewer lines within the subject properties as required by the Department of Environmental Management.
7. Prior to issuance of a Certificate of Occupancy, the applicant shall upgrade non-conforming curb ramps along the county road frontages of the subject property in compliance with the Americans with Disabilities Act.
8. A Solid Waste Management Plan for demolition waste shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Plan Approval.
9. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to the issuance of Final Plan Approval. Any drainage improvements shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a Certificate of Occupancy.
10. The applicant shall comply with Chapter 27 - Flood Control, of the Hawai'i County Code.
11. All earthwork and grading shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai'i County Code.
12. 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.
13. Prior to applying for demolition or ground altering permits (grading, grubbing) the applicant shall submit a monitoring plan and interim preservation plan to the DLNR-SHPD for review and approval. The interim preservation plan shall address measures to preserve and protect the adjacent cultural sites (Ahu'ena Heiau complex) and shall be created in consultation with interested parties.
14. All ground altering activities shall be monitored by an archaeologist, meeting with the approval of the DLNR-SHPD.

15. Should any undiscovered remains of historic sites, such as marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources- State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
16. The applicant shall comply with Section 9-11.1 of Planning Commission Rule 9 and HRS 205A-30.5 related to the use of artificial light on shoreline and ocean waters.
17. The applicant shall implement the following recommendations made by the Kailua Village Design Commission in a letter dated December 26, 2007:
  - Utilize hau, milo and plumeria trees in the parking lot as shade trees.
  - Replace any Indian hawthorns with King Kamehameha crotons and other native plants.
  - Collaborate with the Kailua Village Business District and the State of Hawai'i, as necessary, to address the enhancement of the pedestrian circulation path in the area near the banyan tree on the makai side of TMK 7-5-006:020.
18. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
19. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
20. 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.

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- 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.

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.

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 Norman Hayashi of the Planning Department at 961-8288.

Sincerely,



Rodney Watanabe, Chairman  
Leeward Planning Commission

Lgregorymooerssma09-032PC

cc: Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
Department of Land and Natural Resources/HPD  
Ms. Alice Kawaha  
Mr. Larry Brown  
Zoning Inspector-Kona  
Plan Approval Section  
Mr. Gilbert Bailado ✓