



## County of Hawai'i

### LEEWARD PLANNING COMMISSION

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AUG 21 2012

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Gentlemen:

Special Management Area Use Permit Application (SMA 12-000050)

Request: Development of a Frontage Road from the Hulikoa Intersection at the  
Queen Kaahumanu Highway to Kohanaiki Way

Applicant: Kohanaiki Shores, LLC

Tax Map Key: 7-3-009:016 (por) & 018 (por)

The Leeward Planning Commission, at its duly held public hearing on July 19, 2012, voted to approve the above-referenced request to allow the development of a frontage road along the makai side of the Queen Ka'ahumanu Highway from the Hulikoa Drive intersection at the Queen Ka'ahumanu Highway to Kohanaiki Way, Kohanaiki, North 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 action 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.

The applicant requests a Special Management Area Use Permit to allow the construction of a frontage road from the Hulikoa Drive intersection at the Queen Ka'ahumanu Highway to Kohanaiki Way. The project involves the construction of the

first portion of the frontage road envisioned by the Kona Community Development Plan (KCDP) and involves:

- The extension of Hulikoa Drive makai of the Queen Ka'ahumanu Highway from the makai highway right-of-way to a new intersection with the new frontage road;
- The creation of a new intersection makai of the Queen Ka'ahumanu Highway connecting the makai portion of Hulikoa Drive to the frontage road; and
- The construction of the frontage road from the new intersection to the existing Kohanaiki Way to the north.

The Hulikoa Drive extension and the frontage road are both proposed as two-lane collector roads with 60-ft right-of-ways, with a possible widening to 80 feet at the intersections. The Hulikoa Drive extension will be approximately 511 feet from the makai Queen Ka'ahumanu Highway right-of-way to the new intersection with the new frontage road. The frontage road will be approximately 1,065 feet from the new intersection with the extended Hulikoa Drive to Kohanaiki Way. A typical section consists of 10-ft wide travel lanes, five-foot shoulders, and 10-ft landscaped swales to accommodate drainage. Street lights are proposed only at the intersections (Hulikoa Drive/Frontage Road and Frontage Road/Kohanaiki Way).

With Hulikoa Drive extended makai of the Queen Ka'ahumanu Highway, the current intersection of the Queen Ka'ahumanu Highway and Hulikoa Drive intersection will be reconfigured into a four-way signalized intersection by the Department of Transportation as part of their Queen Ka'ahumanu Highway widening project from two to four lanes. Intersection lane configurations and signal phasing are proposed to include protected left-turn phasing in all four directions. Upon project completion, the existing connection of Kohanaiki way to Queen Ka'ahumanu Highway will be closed, the Queen Ka'ahumanu Highway/Hulikoa Drive intersection will become the access point for properties makai of the highway, and the project will be dedicated to the County of Hawai'i. Landscaping will be maintained by the Kohanaiki Shores. The project may also include entry features for the Kohanaiki Shores.

The project, the improvements to the Queen Ka'ahumanu Highway/Hulikoa Drive intersection, and the closure of the existing connection of Kohanaiki Way to Queen Ka'ahumanu Highway are part of a multi-party memorandum of agreement (MOA) between the Department of Transportation (DOT), an entity representing Kohanaiki Business Park, the owner of the land underlying the Project, and Kohanaiki Shores. Under this MOA, Kohanaiki Shores will construct the project and the DOT will design and construct the Queen Ka'ahumanu Highway/Hulikoa Drive intersection improvements

with the Queen Ka'ahumanu right-of-way as part of the Queen Ka'ahumanu Highway Phase II widening project extending from the Kona International Airport at Keāhole to Kealakehe Parkway.

**The proposed action will not create significant adverse impacts upon nearby and immediately adjacent properties.** The proposed frontage road is located makai of the Queen Ka'ahumanu Highway, bounded by Kohanaiki Way to the north and undeveloped vacant lands to the south and west. Surrounding lands are zoned MG-3a and Open to the north. The closest development to the north is the Natural Energy Laboratory of Hawai'i Authority (NELHA) and the Kona International Airport at Keāhole, approximately 1.5 miles from the site. To the east across the Queen Ka'ahumanu Highway are lands zoned Open, CV-20 and ML-1a, site of the Kohanaiki Business Park, consisting of 52-lots. Properties to the south are zoned open and vacant. Immediately west of the site is vacant land zoned Open. Further west/southwest is The Shores at Kohanaiki, zoned V-1.25, CV-10, RS-10, RM-3, ML-10 and Open, which includes a public shoreline park, home sites, and a golf course.

While the proposed action 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. With the proposed conditions, the proposed frontage road will not substantially affect scenic vistas or viewplanes of nearby residents nor have a significant adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems.

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 applicant states that the project will improve 1) traffic flow on Queen Ka'ahumanu Highway through the consolidation of access points; 2) public access to properties makai and mauka of the highway, and; 3) public access to Kohanaiki Public Beach Park and the shoreline.

**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.** All utilities are available to the project site. 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. A condition of approval will be included to ensure that impacts on coastal resources are minimized.

As the project site is approximately 4,000 feet from the shoreline, the proposed action will not result in any impact on the biological or economic resources of the coastal ecosystem. The site is located in Zone "X", areas outside of the 500-year flood plain. There is no public access to the mountains or the shoreline that traverses the project site. However, there is a public access to the shoreline from the Queen Ka'ahumanu Highway to Kohanaiki Way. The development of the frontage road will not adversely affect this public access that runs along Kohanaiki Way to the shoreline fronting the Shores at Kohanaiki.

An archaeological inventory survey of the entire project site was conducted in June, 2011. The survey identified two sites with three features - site 28999 consisting of a trail and cairn in the southeastern portion of the site, and Site 29000, a cairn in the northwestern portion of the site. Both sites were assessed as significant and will not be disturbed. The two sites not located in the proposed roadway alignments.

Haun & Associates prepared a cultural impact assessment to identify any culturally significant resources on the project site. The assessment concluded that no known cultural resources will be affected by the project and no customary native Hawaiian rights are currently conducted in the study area. The project has received the support of the Kohanaiki 'Ohana Committee, an organization responsible for the management of traditional and customary native Hawaiian rights on the project site.

Geometrician Associates, LLC conducted a botanical survey of the property in August, 2011. The survey found that vegetation cover varies from scattered to sparse, dominated by grasses with low shrubs and herbs. No listed or proposed, threatened or endangered plant species were found. Thus, the project will have minimal effect on botanical resources. Rana Botanical Consulting, Inc. conducted a survey of avian and terrestrial mammals on the property. However, the study noted that the Hawaiian petrel and the Newell's Shearwater fly over the project site in small numbers between April and December. No terrestrial mammalian species were detected during the survey. No avian or terrestrial species currently protected or proposed for protection under the Federal or State of Hawai'i endangered species programs were discovered during the survey.

**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 project area is designated Urban Expansion and Open along the highway. The Urban Expansion designation includes a mix of high density, medium density, low density, industrial, industrial-commercial and/or open designations in areas where new settlements may be desirable, but where the specific settlement pattern and mix of uses have not yet been determined, and typically includes lands zoned Open (O). Thus, the proposed development is consistent with the LUPAG Map designation as the property is zoned Open. This proposed development would complement, among others, the goals, policies and standards of the Transportation element of the General Plan, which states, “provide a system of roadways for the safe, efficient and comfortable movement of people and goods.”

The Kona Community Development Plan (KCDP) adopted by Ordinance No. 08 131 effective September 25, 2008 identifies the property as “Kona Urban Area”. The Transportation section of the Kona CDP serves as a guide for County policy-making regarding transportations systems. The objectives, policies, and actions iterated in the KCDP establish a transportation oriented basis for future development. The project is consistent with the Land Use and Transportation policies in the KCDP, as the proposed action is consistent with policy (TRAN 1.5) in the KCDP specifically recommending a frontage road makai of the Queen Ka‘ahumanu Highway between the airport and Hulikoa Drive. The project also complies with the Guiding Principles outlined in the KCDP to provide connectivity and transportation choices and provide infrastructure and essential facilities concurrent with growth. The project falls under Concurrency Zone A, “4A-Queen Ka‘ahumanu Frontage Road; provide adequate access to Queen Ka‘ahumanu Highway Frontage Road (Keāhole Road to Hulikoa Drive)” on the KCDP Official Concurrency Map (Figure 4-3). (Refer to pages 22 through 24 of the application for more details.)

The project will be the first portion of the long-term plan envisioned in the Kona CDP for a frontage road makai (west) of, and parallel to the Queen Ka‘ahumanu Highway connecting through to the airport to the north (Kona CDP Policy TRAN-1.5). Notwithstanding the long-term plans, the project provides an independent functional purpose of providing safe access to the Kohanaiki Public Beach Park, access to Kohanaiki Shores, and one of the few planned intersections between the airport and Kailua-Kona that will connect land uses mauka and makai of the Queen Ka‘ahumanu Highway (other than the existing temporary intersection at Kealakehe Parkway). As such, a condition of approval will be included requiring the frontage road to connect to the northern property line for continuity as iterated in the Kona CDP.

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 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: An archaeological inventory of the project site and surrounding area identified two sites, both assessed as significant, however, not located in the proposed roadway alignment. Both sites will not be disturbed.

The valuable cultural, historical, and natural resources found in the area: A cultural impact assessment concluded that no known cultural resources will be affected by the project and no customary native Hawaiian rights are currently conducted in the study area. The project has received the support of the Kohanaiki 'Ohana Committee, an organization responsible for the management of traditional and customary native Hawaiian rights on the project site. A botanical survey, as well as an avian/terrestrial survey of the property was conducted. No listed or proposed, threatened or endangered species were found. Thus, the project will have minimal effect on existing resources.

Possible adverse effects or impairment of valued resources: Native vegetation, tho sparse, may be destroyed by ground alteration. However, studies indicate that there are no valued resources on the site.

Feasible actions to protect native Hawaiian rights: The property is located makai of the Queen Ka'ahumanu Highway, approximately 4,000 feet from the shoreline. As such, the proposed project will not be impacted by coastal hazard and beach erosion. There are no identified public accesses to the shoreline or mountains on the project 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 to 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, its successor or assigns shall be responsible for complying with all stated conditions of approval of this permit.
2. The frontage road shall be completed within five (5) years from the effective date of this permit.

3. The applicant shall provide a minimum 10-foot road widening setback along both sides of the proposed 60-foot right-of-way exclusive of intersections. The right-of-way shall be a minimum of 90-feet at the Queen Ka'ahumanu Highway as the TIAR anticipates a need for six lanes at the intersection and 80 feet at all other intersections.
4. As recommended in the Department of Public Works' memo dated June 7, 2012, a traffic analysis shall be conducted by a licensed engineer.
5. The proposed frontage road shall provide for future connectivity to the northern property boundary of Parcel 16.
6. Access to the proposed frontage road, including the provision of adequate sight distances, should meet with the approval of the Department of Public Works.
7. The proposed frontage road shall follow the guidelines incorporated in the "A Policy on Geometric Design of Highways and Streets (AASHTO) and meet the requirements of the Department of Public Works.
8. The applicant shall implement best management practices engineered to detain and filter pollutant-carrying first flush stormwater or spills to supplement drywells (e.g., bioswales or similar measures), appropriate to the potential impact to anchialine ponds and the level of traffic, meeting with the approval of the Department of Public Works.
9. Install street lights, signs and markings meeting with the approval of the Department of Public Works, Traffic Division.
10. Any utility poles in the road right-of-way shall be installed as shown on DPW Standard Detail R-35 (revised). The applicant shall provide any necessary easements for installation of such utilities.
11. All driveway connections to the frontage road shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code.
12. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.

13. 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. If required, the drainage improvements shall be constructed, meeting with the approval of the Department of Public Works.
14. 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.
15. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
16. The applicant shall comply with Chapter 11-55, Water Pollution Control, Hawai'i Administrative Rules, Department of Health, which requires and NPDES permit for certain construction activity.
17. 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.
18. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
19. 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.



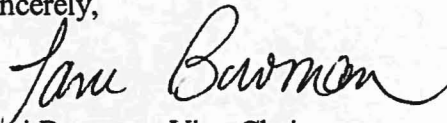
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
- E. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the Planning Commission for appropriate action.

Should any of the 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 Daryn Arai of the Planning Department at 961-8288.

Sincerely,



Lani Bowman, Vice-Chairman  
Leeward Planning Commission

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cc: Steven S. C. Lim, Esq.  
Kohanaiki Shores, LLC  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division  
Planning Department - Kona  
Department of Land and Natural Resources/HPD  
DOT-Highways, Honolulu  
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Zoning Inspector-Kona  
Ms. Susan Gagorik, Admin Permits  
Mr. Gilbert Bailado