

## County of Hawai'i

### WINDWARD PLANNING COMMISSION

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

SEP 17 2014

Mr. Kurt M. Klimt  
Klimt Architects  
65-1232 Laelae Place  
Kamuela, HI 96743

Dear Mr. Klimt:

Special Management Area Use Permit (SMA-14-000056)  
Applicant: Orchid Manor Association of Apartment Owners  
Request: To Allow an Addition of a New Roof Structure Over the Existing Roof of an  
Apartment Complex  
Tax Map Key: 2-1-006:018

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The Windward Planning Commission, at its duly held public hearing on September 5, 2014, voted to approve the above-referenced request to allow an addition of a new roof over the existing roof of an apartment complex on 1.028 acres of land situated within the County's Resort-Hotel (V-.75) zoning district and the SMA. The project site is situated at 355 Kalanian'ole Avenue, Waiākea, Hilo, Hawai'i.

Approval of this permit 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. Construction of the proposed development shall be completed within five (5) years from the effective date of this permit
3. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
4. 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.

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5. 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.
6. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
7. 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.
8. 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.

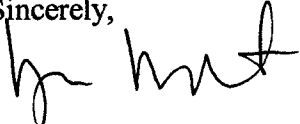
This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies

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Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Daryn Arai of the Planning Department at 961-8142.

Sincerely,



Myles Miyasato, Chairman  
Windward Planning Commission

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Enclosure: PC Findings Report

cc: Orchid Manor Association of Apartment Owners  
Department of Public Works  
Department of Water Supply  
County Real Property Tax Division - Hilo  
Department of Land & Natural Resources - HPD  
Ms. April Surprenant  
Mr. Gilbert Bailado

**COUNTY OF HAWAI‘I  
PLANNING COMMISSION FINDINGS**

**ORCHID MANOR ASSOCIATION OF APARTMENT OWNERS  
SPECIAL MANAGEMENT AREA USE PERMIT APPLICATION (SMA 14-000056)**

The applicant is requesting a Special Management Area (SMA) Use Permit to allow the addition of a new roof over the existing roof on an apartment complex on 1.028 acres of land situated within the County’s Resort-Hotel (V-.75) zoning district and the Special Management Area (SMA). The proposed cost of improvements for the new roof is estimated at approximately \$500,000.00. The apartment complex was constructed prior to the SMA laws, rules and regulations and did not require a SMA Major Use Permit for the construction of the original complex. This SMA permit is specific to the request of the new roof and not the entire apartment complex, which is considered non-conforming because it was constructed prior to the SMA rules.

The apartment complex, which is called Orchid Manor Condominium, has been experiencing ongoing leakage problems and drainage issues with their existing roof. The options were to replace the existing roof, which would be very difficult for residents who reside in the complex, or to build a new roof over the existing roof and minimize the difficulties to the residents while construction occurs.

Within Planning Commission Rule 9 (Special Management Area), there are certain exemptions that can be granted if an action is not defined as “Development”. One of these actions is “repair, maintenance, or interior alterations to existing structures or relating to existing uses,” which would appear to apply in this particular request. The decision to require the applicant to submit a SMA Use permit was because the action is not the repair of the existing roof but is constructing a new roof above the existing roof, which expands the envelope of the existing structure, thereby resulting in new development.

**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.** In considering the significance of potential environmental effects, the Director shall consider the sum of those effects that adversely affect the quality of the environment and shall evaluate the overall and cumulative effects of the action. 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.

A "substantial adverse effect" is determined by the specific circumstances of the proposed use, activity or operation. In determining whether a proposal may have a substantial adverse effect on the environment, the Director shall consider every phase of a proposed action and expected consequences, either primary or secondary, or the cumulative as well as short or long-term effect of the proposal. In reviewing the proposed development against the factors that may constitute a substantial adverse effect as listed under Planning Commission Rule 9-10 (H) (1 through 10), it has been determined that the proposed development of the new roof for the Orchid Manor Condominium complex and related improvements on the subject property will not have a significant adverse environmental or ecological effect upon the Special Management Area. It should be noted that under Planning Commission Rule 9-10 (H) (9), a proposed use, activity or operation may constitute a substantial adverse if it affects an environmentally sensitive areas, such as flood plain, tsunami zone, erosion-prone area, geologically hazardous land, estuary, fresh water or coastal water. The subject parcel is located within an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain. As such, the proposed development will not create a substantial adverse effect on these environmentally sensitive areas.

The proposed development will not create significant adverse impacts upon nearby and adjacent properties as the immediate area has been developed with industrial, commercial and residential uses. The subject property is 1.028 acres in size and is fully developed with a 101-unit condominium apartment complex and parking area. Surrounding properties consist of a mix of uses and zoning. To the west towards Hilo Town are properties zoned V-.75 and Open, which consist of a large group living facility, several dwellings and open area for parks and ponds. Further west is Reed's Bay. To the south and east are properties zoned MG-1a and ML-20, which consist of light industrial and general industrial types of uses. To the east is a large self-storage facility and to the south is the Mazda dealer. To the north is a State owned property that is zoned Open and MG-1a, which is vacant, and the ocean.

The property is located within an area adequately served with essential services and facilities such as water, transportation systems and other utilities, although these services are not needed for the proposed request.

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.

The subject property is zoned Resort-Hotel – 1,250 square feet (V-1.25) by the County. Hotels, lodges, time-share units, and single-family, double-family and multiple-family dwellings are listed as permitted uses within the Resort-Hotel zoning in the Zoning Code, including the existing condominium apartment complex. The applicant is only proposing to construct a new roof on an existing apartment complex. The General Plan Land Use Pattern Allocation Guide (LUPAG) map designation for the property is Industrial.

**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.** 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. In reviewing the proposed development, it has been determined that it is consistent with the objectives and policies listed under Chapter 205A, HRS, which includes protecting and preserving recreational resources, historic resources, scenic and open space

resources, coastal ecosystems, economic uses, coastal hazards, beach protection, and marine resources.

There are identified recreational resources along this area of Hilo including Reed's Bay and other public beaches along Keaukaha. These allow for surfing, snorkeling, scuba diving, spearfishing, fishing, boating, and other similar types of activities. There are several identified public access areas to the shoreline near the subject property, including on the adjacent property to the west.

The proposed development will not substantially affect scenic vistas or viewplanes from the nearest State Highway nor have an adverse impact on coastal recreational or visual resources to the shoreline and coastal ecosystems. The project will not restrict access to coastal recreational resources along the shoreline.

There were no listed, candidate or proposed threatened or endangered plant species that found on the subject property, and no rare plant species or ecosystems are present or nearby.

The Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) requested that the applicant submit a photographic record, plans and specifications and additional information before DLNR-SHPD can make a determination for eligibility for "no-effect". The applicant has responded to DLNR-SHPD with the requested information in a letter dated August 6, 2014. No follow-up response has been received from the DLNR-SHPD as of the date of this writing.

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 on the property.

Lastly, this approval is made with the understanding that the Applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure

to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above findings, the request to allow the addition of a new roof over the existing roof on an apartment complex is approved by the Planning Commission.