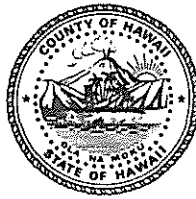


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

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

September 14, 1993

Mr. Michael Krochina
Krochina Engineering
P. O. Box 4613
Kailua-Kona, HI 96745

Dear Mr. Krochina:

Special Management Area (SMA) Minor Permit No. 93-18
Shoreline Setback Area Minor Structure Determination
Proposed Public Access Stairway
Kona Makai Condominium
TMK: 7-5-21: 4; Kahaluu 2, North Kona, Hawaii

We have received on August 2, 1993, and reviewed a Special Management Area (SMA) Use Permit Assessment Application for the proposed construction at the subject property of a public access stairway along the seaward face of a makai wall, mauka of the certified shoreline. This stairway will connect the existing public shoreline access path along the north boundary of the subject parcel with the shoreline area. The proposed stairway is to be authorized under SMA Minor Permit No. 93-18 below.

The proposed stairway will be located within the minimum 40-foot shoreline setback area. The proposed addition will not alter the existing grade, nor will it affect natural shoreline processes. It is designed to allow public access from the existing elevated mauka-makai public access walkway from Alii Drive to continue down to the shoreline grade. The shoreline grade is presently separated (and access is effectively prevented) by the 7-8 foot drop at the face of the retaining wall which supports the makai end of the public accessway. We have determined that the proposed public access stairway, as described and diagrammed in the submitted application materials, is a minor structure as defined in Planning Commission Rule No. 8, Section 8-3(f). Section 8-7(d) excepts such a determined minor structure from the requirement for a Shoreline Setback Variance.

We have also determined that the proposed stairway is an exempt class of action which does not require the preparation of an Environmental Assessment under Chapter 343, Hawaii Revised Statutes.

Mr. Michael Krochina
Page 2
September 14, 1993

SPECIAL MANAGEMENT AREA MINOR PERMIT NO. 93-18

BACKGROUND INFORMATION

Applicant Michael Krochina, dba Krochina Engineering, is applying in behalf of the William T. Carter & Mary Carter Estate (landowner) and the Association of Property Owners of Kona Makai for a Special Management Area (SMA) Minor Permit to allow the construction of the proposed public access stairway. The subject property is a 3.732 acre parcel extending from 75-6026 Alii Drive to the shoreline.

The truncated public access walkway was installed subsequent to a negotiated settlement of a protracted legal action (County v. Carter, Civil No. 9422) enforcing a March 4, 1974, Plan Approval condition to incorporate a 10-foot wide public access easement between Alii Drive and the shoreline. The last elements of this recalcitrant compliance effort include the proposed construction of the stairway, minor landscaping of the stairway area, installation of approved public shoreline access signs at the mauka and makai ends of the accessway, and the approval of documents for defining and recording the access easement with the State Bureau of Conveyances, as covered under the subject SMA Minor Permit.

The recorded accessway will be 10 feet wide, running along or next to the northern boundary line of the subject parcel, and within which a 4-foot wide path will be marked by painted stripes or other markings approved by the Planning Department. The prepared easement description and associated two maps have been reviewed and approved by the Planning Director. At least two approved public shoreline access signs will be erected at or near the mauka and makai ends of the accessway, to be kept plainly visible to the public traveling along Alii Drive or laterally along the shoreline area. The stairway will be constructed along the makai face of an existing CRM retaining wall, have 5-foot wide steps, a 1.5 foot thick CRM wall retaining the steps, and a pipe railing along its descent to the shoreline grade. Landscaping will be a simple hibiscus supplement to the existing landscaping. The estimated cost of the proposed improvements is \$35,000.

SHORELINE A shoreline survey map of the subject parcel was certified on March 3, 1991, and recertified to the same alignment on May 26, 1993. The proposed stairway is to be constructed completely within the minimum 40-foot shoreline setback area, approaching the certified shoreline to 15 feet on the north and 19 feet on the south. Despite the stairway's seaward extension of the northern condominium building landscape wall 7-14 feet, there will be ample room mauka and makai of the certified shoreline for lateral public

Mr. Michael Krochina
Page 3
September 14, 1993

access. The applicant is to be sure that the alignment of the shoreline fronting the stairway area is clearly staked and flagged prior to and for the duration of the construction. No construction materials, by-products, wastes or activities may occur makai of the flagged shoreline.

LAND USE. The subject property and the surrounding lots on the makai side of Alii Drive bear a State Land Use (SLU) District classification of "Urban" and County zoning of Resort Hotel with 1250 square feet per unit (V-1.25). The surrounding lots on the mauka side of the road also bear a SLU District classification of "Urban" and County zoning of V-1.25, Multiple Family Residential with 1500 square feet per unit (RM-15), Single Family Residential with 1500 square feet per unit (RS-15), and Unplanned (U). The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the area for Resort use and the shoreline area for Open Area uses. Existing uses in the area include apartment and single family residential.

HAZARDS. The Flood Insurance Rate Maps (FIRM), prepared by the Federal Emergency Management Agency (FEMA), identifies the subject area to be affected by three flood zone designations. The Coastal High Hazard or Tsunami Area ("VE") is identified to fall makai of both the stairway and the certified shoreline in the northern part of the parcel, and to be near the certified shoreline in the rest of the parcel. Inland of this, the Flood Fringe ("AE") includes the stairway location and a broader portion of the parcel to the south. About 2/3 of the parcel lies in Zone "X", outside the 500-year floodplain. The Lava Flow Hazard Map for the island of Hawaii identifies the area of the subject parcels to be on Hualalai volcano in Lava Hazard Zone 4, Zone 1 being the most hazardous zone.

VEGETATION. The vegetation on the subject parcel consists totally of landscape plantings, and no native species occur except in that context. Consequently, no rare native species are known or expected. One coconut tree is planned for removal from the site of the stairway.

HISTORIC STATUS. An inspection of the area of the proposed stairway was made by the Historic Preservation Division, Department of Land and Natural Resources. No archaeological features were found; and that office has indicated in a January 17, 1992, memo a determination of "no effect".

Mr. Michael Krochina
Page 4
September 14, 1993

FINDINGS AND DETERMINATION

Upon review of the request against the guidelines for granting a Special Management Area Permit, the Planning Director hereby approves a Special Management Area Minor Permit. The proposed action is consistent with the Objectives, Policies and SMA Guidelines which were established to provide guidance for the preservation, protection, and development of coastal resources of the State and County. They identify several areas of management concern including historic, recreation, scenic resources, coastal ecosystems, economic use, and coastal hazards.

The proposed construction at the subject property of a public access stairway along the seaward face of a makai wall, mauka of the certified shoreline, within the 40-foot shoreline setback area, is not expected to have any detrimental effects on the Special Management Area, as determined from the following findings and conditions.

The total valuation of the project will not exceed \$125,000; and the proposal will not result in a significant adverse effect on the Special Management Area.

The certified shoreline lies makai of the proposed stairway, and the intent of the stairway is to provide mauka-makai public access through the subject parcel to reach the shoreline. Lateral public access is unimpeded along the coast here, both above and below the certified shoreline.

The design and emplacement of the stairway, outside the "VE" flood zone, is not expected to aggravate flooding or to be particularly vulnerable to storm wave damage.

Considering the prolonged residential use in the immediate area and the past replacement of the native vegetation with mostly introduced landscaping species, it is highly unlikely that any rare or endangered species of plant or animal exist on the site. Similarly, no historic sites were observed or are expected.

Based on the above findings, the limited nature of the project, and given the proposed conditions, it is determined that the granting of this request will not impact the identified resources. Therefore, the granting of this request will not be contrary to the purpose and intent of Chapter 205-A, HRS, relating to Coastal Zone Management; Rule 9 of the Planning Commission relating to the Special Management Area; or the General Plan.

Mr. Michael Krochina
Page 5
September 14, 1993

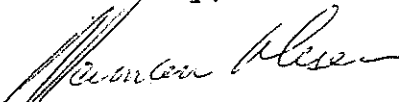
A Special Management Area Minor Use Permit is further approved subject to the following conditions:

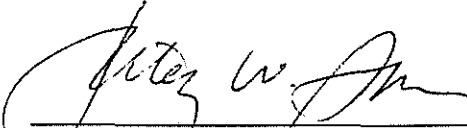
1. The applicant, its successors or assigns shall be responsible for complying with all conditions of approval.
2. The applicant shall comply with all other applicable laws, rules, regulations and requirements.
3. The life of authorization of this permit is two years. However, Planning Commission Rule No. 8, Section 8-7(d)(2), requires that the minor structure shall be completed within one year of the date of the Department's determination that the proposed project is a minor structure (and the same date as this SMA Minor Permit).
4. Any deviations from the proposed project as explained in body of this permit will require advance approval from the Planning Department.
5. The certified shoreline in the area within 50 feet of the stairway shall be measured, staked and roped by a registered land surveyor prior to any land alterations in the affected area. This stakeline should be marked with a series of colored flags and left in place for the duration of the construction of the stairway project. The Kona Office of the Planning Department shall be called to inspect and verify the position of the stakeline before any site alterations are initiated, and again after the project is completed.
6. All construction activities and materials, including debris, eroded soil, cement, paint, petroleum products and other possible contaminants shall be prevented from entering the coastal waters or straying makai of the certified shoreline.
7. Three copies of "Easement 'A' For Pedestrian Access Purposes Over And Across Lot A", and the two associated survey maps, shall be provided for recordation with the State Bureau of Conveyances and for residence in the files at the Hilo and Kona offices of the Planning Department.
8. At least two Planning Department approved public shoreline access signs shall be erected at or near the mauka and makai ends of the accessway, to be kept plainly visible to the public traveling along Alii Drive or laterally along the shoreline area.

Mr. Michael Krochina
Page 6
September 14, 1993

Should you have any questions about this permit please contact
Alice Kawaha or Rodney Nakano at this office.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

 9-17-93
for Chief Engineer Date

FRW:mjh
4135Q

xc: SMA Section
West Hawaii Office, w/plans
Mr. Galen Kuba, Department of Water Supply