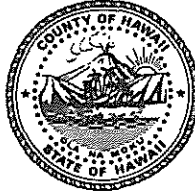


Stephen K. Yamashiro  
Mayor



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

#### CERTIFIED MAIL

October 10, 1994

Ms. Nani Lee  
Cades Schutte Fleming & Wright  
Attorneys At Law  
75-170 Hualalai Road, B-303  
Kailua-Kona, HI 96740-1737

Dear Ms. Lee:

Special Management Area (SMA) Use Permit No. 24  
Applicant: Kona By The Sea's Association of  
Apartment Owners  
Proposed Protective CRM Walls and Gate  
TMK: 7-5-20:16; Puapua'a 2nd, North Kona, Hawaii

Pursuant to our letter dated September 23, 1994, we hereby issue SMA Minor Permit No. 24 to allow the construction of two staggered protective CRM walls with a gate at the existing Kona By The Sea Condominium development.

#### APPLICANT'S REQUEST

1. **Request:** The Kona By The Sea's Association of Apartment Owners is proposing to construct two staggered protective CRM walls with a gate to protect their landscape improvements. In addition, the gate is proposed to restrict access to their property. The project area is paved with rocks/cement and is utilized as the walkway from the ground floor to the shoreline and saltwater swimming pool. The staggered walls and gate will be constructed within the 18'-4 1/2" open area walkway. The walls will result in an extension of the existing 5 1/2' high CRM boundary walls. The staggered rock walls will measure approximately 4'-6" in height, and 24" in width. One wall will be approximately 6 linear feet, and the other wall will be 14 linear feet. The closest points of the walls will have an approximately 36" opening where the gate will be installed. The proposed improvements will be situated within the 40-foot shoreline setback area.

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2. **Estimated Cost:** The total estimated cost for the proposed construction is \$8,000.

#### STATE AND COUNTY PLANS

3. **SLU:** The parcel is located within the State Land Use Urban District.
4. **GP LUPAG Map:** The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation for the area is Medium Density Urban, and Open along the coastal area.
5. **County Zoning:** The parcel is zoned Multiple Family Residential- 1,500 square feet(RM-1.5).
6. **SMA:** The parcel is located within the Special Management Area. Therefore, the project is subject to SMA review.
7. **Chapter 343:** This project is determined an exempt class of action which does not require the preparation of an Environmental Assessment under Chapter 343, HRS, regarding Environmental Impact Statements.

#### SITE DESCRIPTION

8. The subject property is about 3.27 acres and is located on the makai side of Alii Drive. It is the site of the existing 87-unit Kona By The Sea Condominium development. SMA Use Permit No. 129 was granted by the Planning Commission effective March 13, 1980 to allow the development of an 87-unit condominium project and related improvements.
9. There is an existing saltwater swimming pool located makai of the project area. A 3-foot high, 24-inch wide CRM rockwall exists on portion of the perimeter of the pool, nearest the open walkway project area.
10. Two shoreline certification survey maps were certified by the Chairperson of the Board of Land and Natural Resources on January 10, 1980 and May 16, 1990. On both maps the certified shoreline followed along the seaward edge of the existing CRM wall and continuing along the inner edge of the existing saltwater swimming pool. Based on this, the shoreline has been determined fixed at those areas.
11. An existing 10-foot wide public pedestrian shoreline access easement runs along and parallel to the northern boundary. The public shoreline access leads to the existing concrete deck and saltwater pool. There is also a 4- to 5-foot

pathway between the saltwater pool and the open walkway which provides continuous lateral shoreline public access. Four (4) on-site public parking stalls are provided for people utilizing the public access.

12. The proposed improvements will result as additions or extensions of existing CRM rock boundary walls. Therefore, adverse impacts to endangered species of flora and fauna, or any historic resources are not anticipated.
13. The Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency designates portion of the property along the coastal area as within the Special Flood Hazard areas inundated by 100-year flood, Zones VE and AE with base flood elevation at 11 feet. The remaining portion is designated Zone X, or areas determined to be outside the 500-year flood plain.
14. The surrounding area includes The Kona Isle Condominiums to the north, the Kona Riviera Condominiums to the south, and vacant lands to the east.

#### UTILITIES AND SERVICES

15. **Access:** Access to the property is from Alii Drive which has a 50-foot wide right-of-way with 22-foot wide pavement.
16. **Other Essential Utilities and Services:** Water, electricity, police and fire protection, and other essential utilities and services are available at the property.

#### ASSESSMENT

The purpose of Chapter 205A, HRS, and Planning Commission Rule No. 9, 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 island's coastal zone areas. Special controls on development in these areas have been enacted, to prevent permanent loss of valuable resources. Upon review of the applicant's request for a Special Management Area Permit, the Planning Director finds that the proposed improvements are consistent with State and County SMA policies, as outlined below:

- a. **Recreational Resources:** The project will not cause any disturbance to recreational resources. The proposed protective walls and gate will not remove or impose restrictions on existing public access routes to and along the shoreline.

- b. **Historic and Natural Resources:** The project site has been extensively developed with the existing condominium structures and related improvements. Therefore, the proposed improvements should not have any adverse effects on historical and natural resources.
- c. **Scenic and Open Space Resources:** The proposed improvements will be situated on the makai side of the existing condominium structures. Therefore the proposed protective walls and gate will not interfere with the coastal view plane.
- d. **Coastal Ecosystems:** The proposed protective walls and gate will not alter the shoreline. The project will be constructed on existing paved walkway approximately 6 to 8 feet from the edge of the saltwater pool. Therefore, there should not have any impact on the coastal ecology.
- e. **Economic Uses:** The project will reduce the damage to the property's landscape during periods of high surf. In the past, high surf waves have funnelled over the 3-foot high rockwall along the saltwater pool and through the open walkway area causing erosion damage to the landscaping.
- f. **Coastal Hazards:** The project will be constructed in an area which is subject to tsunami inundation. However, the project will not intensify coastal hazards in the area. The proposed protective walls are considered minor structures for safety improvements as well as extensions of property borders.

#### **DETERMINATION**

Based on the preceding assessment, the Planning Director has determined that this proposal will not be contrary to State and County policies governing the Special Management Area. The Planning Director hereby approves Special Management Area Minor Permit No. 23, subject to the following conditions:

- 1. The applicant, successors, or assigns shall be responsible for complying with all of the stated conditions of approval.
- 2. Construction of the proposed improvements, as described and diagrammed in the application, shall be completed within one year from the date of this permit.
- 3. The applicant, successors, or assigns shall comply with all other applicable County, State, and Federal regulations.

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4. A progress report shall be submitted to the Planning Director within six months from the date of this permit. This report shall include the status of the project and to what extent the conditions of approval are being complied with. Additional progress reports will be required every six months, until all of the conditions of approval have been complied with and the Planning Director acknowledges that further progress reports are not required.
5. An extension of time for the performance of conditions may be granted by the Planning Director only when a) the non-performance of conditions 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; and b) granting of the time extension would not be contrary to the original reasons for the granting of the permit; and c) 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).

Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke this permit.

Please feel free to contact staff members Alice Kawaha or Linda Copman at 961-8288 if you have any questions.

Sincerely,

*Virginia Goldstein*  
VIRGINIA GOLDSTEIN  
Planning Director

Chief Engineer Date 10/12/94

AK:mjh  
SMM24

xc: Ms. Donna Kiyosaki, Chief Engineer  
Planning Commission  
West Hawaii Office  
SMA Section *gaw*