

Virginia Goldstein

Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252 (808) 961-8288 • Fax (808) 961-8742

July 20, 1999

Mr. James Keliipaakaua, Jr. P.O. Box 11388 Hilo, HI 96720

Dear Mr. Keliipaakaua:

SMA (Special Management Area) Minor Permit No. 81

SMA Use Permit Assessment 99-18

Applicant: James Keliipaakaua, Jr. (landowner)

Request: Open Market for Sale of Personal Goods

CDH (Downtown Hilo Commercial) District, Hawaii Island

TMK; 2-3-09; 18

SMA Minor Permit No. 81 is approved for an open market use to sell personal goods on parcel 18. A copy of the permit is enclosed for your perusal and record.

Finding of Consistency: Permitted Use. SMA Rule 9-7B3 requires a finding that the proposed development is consistent with the County GP (General Plan) and zoning. The county zoning of this parcel is CDH. And the GP land use designation is High Density Urban Development, according to the LUPAG (Land Use Pattern Allocation Guide) Map, HI County GP, Ordinance No. 89-142 (effective: November 14, 1989).

In the CDH zone, a farmers' or open market is a permitted use according to County Zoning Code Sec. 25-7-22(a)(20). Furthermore, this proposal is consistent with the GP's High Density Urban Development designation. An open market conforms to the GP's high density designation because this land use category allows for commercial and related services, according to the GP Support Document at 80.

Resp to 4555

JUL 2 1 1999

Mr. James Keliipaakaua, Jr. Page 2 July 20, 1999

HRA (Hawaii Redevelopment Agency). The proposed development is within the review boundaries of the HRA and will require their approval. Plans of this project have been submitted to the HRA via the Mayor's Office. This application is scheduled for review by the HRA at their August 19, 1999 meeting. The Planning Department's plan approval process will consider incorporating any recommendations received from the HRA.

<u>SMA Minor Permit No. 81, Conditions.</u> Approval of the Minor Permit is <u>subject to</u> conditions. The applicant is responsible to comply with these requirements. The following information is pertinent to and is incorporated as a part of the minor permit conditions, referenced below.

Condition 3: Final Pan Approval. SMA Minor Permit No. 81 requires that this project obtain Final Plan Approval and a copy of the PA application form is enclosed for that purpose. Some of the typical development issues reviewed under the Plan Approval process are requirements for yard setbacks, off-street parking, landscaping, and design considerations. For example, in the CDH District, minimum yard setbacks are not specified by the County Zoning Code unless required by plan approval. The Final Plan Approval process will determine whether yards setbacks or other issues pertain to this site.

Off-street Parking: None Required. According to the County Zoning Code, sec. 25-4-59.2 provides an exception to the off-street parking and loading requirements. The Zoning Code's off-street parking and loading requirements do not apply to the area in the City of Hilo bounded by Kinoole Street, Ponahawai Street, an imaginary straight line extension of Ponahawai Street into Hilo Bay and Wailuku River. Because parcel 18 is within the identified exception area it therefore is not subject to any of the off-street parking and loading criteria of the County Zoning Code.

Condition 4: Discovery of Any Unidentified Sites or Remains: Historic Preservation.

Recent recommendations from the state DLNR's (Department of Land & Natural Resources)

- SHPD (State Historic Preservation Division) clarifies when and what agencies to notify to comply with the historic preservation requirements of the SMA Minor Permit as well as certain state administrative rules. The recommendations stated below are incorporated into and are a part of permit condition 5.

Mr. James Keliipaakaua, Jr. Page 3 July 20, 1999

a. <u>Human Remains</u>: The discovery of human remains require the immediate notification of the following state and county agencies.

SHPD: Ph: (808) 933-0482 (Hilo Office/Field Archeologist)

(toll free) 974-4000, ext. 2-8015 or (808) 692-8015 (Kapolei, Oahu Office)

DLNR - DOCRE (Division of Conservation & Resource Enforcement)

Ph: Conservation Hotline, Ask Operator for ENTERPRISE 5469

(notify during after business hours/weekends/holidays)

Police Department & Medical Examiner/Coroner - state rules require the discovery of human remains to be immediately reported to local authorities.

b. Non-burial Remains Over 50 years Old: Please immediately **notify SHPD** to determine the appropriate mitigation measures, in addition to the Planning Director.

Condition 6: Hawaii County DPW (Department of Public Works). A discussion of the development issues of this project germane to DPW's jurisdiction is documented by DPW's Memorandum re: TMK: 2-3-09: 18 (July 8, 1999). Generally, the matters discussed in DPW's memorandum require compliance with the County Code standards under DPW's jurisdiction; therefore, consultation is required with DPW Engineering, Building, & Traffic Divisions.

Requests for Permit Time Extension. In the event that an extension may be needed, the request is applied to the Planning Director. Pursuant to SMA Rule 9-11E, file a written request 60 (sixty) days before the permit expires. The request shall address two issues: (a) the length of time requested; and (b), the reasons for the time extension. Time Extensions. The Planning Director may grant a time extension upon three circumstances: (a) nonperformance is a result of unforeseen conditions or conditions beyond the applicant's control; (b) a time extension is to be consistent with the original reasons for issuing the minor permit; and (c), the time extension shall be equal to the initial three year performance period.

Mr. James Keliipaakaua, Jr. Page 4 July 20, 1999

For any questions or concerns about this SMA Minor Permit, please contact Earl Lucero of this office at 961-8288.

Sincerely,

VIRGINIA GOLDSTEIN

Planning Director

EML:gp

f:\wp60\earl\letters\ljk.eml

Enclosures

c: SMA Section
 Plan Approval Section
 Planning Commission
 Chief Engineer
 DPW-Building Division, Engineering Division, & Traffic Division, Hilo Office

SPECIAL MANAGEMENT AREA MINOR USE PERMIT NO. 81

Approved Development (describe in detail): Open Market for Retail Sale of Personal Goods, pursuant to Hawaii County Code secs. 25-1-5(b)(47) & -7-22(a)(20). The development proposal is approved for an open market to sell personal goods (e.g., flowers & fruits) and approval is provided consistent with the description stated in SMA Use Permit Assessment Application No. 99-18 (June 1, 1999).

SMA Minor Permit No. 81 is subject to conditions. Please see the conditions of approval page of this permit.

Applicant's Name: <u>James Keliipaakaua, Jr., applicant-landowner</u>

TMK/Ahupua'a/District: 2-3-09: 18, Downtown Hilo Commercial District, Hawaii Island

Land Area: <u>1,291 sf</u> ac./sf.

Compliance with Objectives and Policies of Chapter 205-A, Hawaii Revised Statutes regarding the Special Management Area

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Use Permit requires that activity be consistent with all objectives & policies.

- 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. 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 the elimination of planning options.
- The proposed development is consistent with the Hawaii County General Plan and Zoning Code.





Compliance with Objectives and Policies of Chapter 205-A, Hawaii Revised Statutes regarding the Special Management Area

Check all objectives and policies found to be consistent with proposed development.

Page 2 Issuance of SMA Minor Use Permit requires that activity be consistent with all objectives & policies.

- The proposed development does not conflict with the following objectives of Chapter 205A, Hawaii Revised Statutes to:
 - ☑ Provide coastal recreational opportunities accessible to the public.
 - Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - Protect valuable coastal ecosystems from disruption and minimize advese impacts on all coastal ecosystems.
 - Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
 - Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - Stimulate public awareness, education, and participation in coastal management.
- The proposed development is consistent with the following policies of Chapter 205A, Hawaii Revised Statutes relating to:
 - ⊠ Recreational resources

 - Scenic and Open Space resources

 - Managing Development
 - ☑ Public Participation
- ☐ The proposed development conforms with the requirements of Chapter 343, Hawaii Revised





Conditions of Approval TMK: 2-3-09: 18

Page 3

- 1. Timely Compliance. The applicant(s), their successors or assigns shall be responsible for complying with all stated conditions of approval. The Director shall initiate procedures to revoke the permit for any unfulfilled condition or for any permit condition not in substantial, timely compliance.
- 2. Minor Permit Valid: Runs with Land. Consistent with SMA Rule 9-14A & Zoning Code sec. 25-2-10, SMA Minor Permit No. 81 is a privilege that shall run with the land from the date of the Planning Director's signature of approval, stated below. Completion of Improvements: Three Years. All improvements of the open market operation shall be completed within three years of the permit's date of approval.
- 3. Final Plan Approval: One Year. The open market and its improvements require Final Plan Approval and it shall be obtained within one year of the permit's date of approval. In the CDH (Downtown Hilo Commercial) District, market & maintenance operations, hours of use, & improvement requirements, if any, shall be consistent with Zoning Code sec. 25-7-22(a)(20).
- 4. Discovery of any unidentified sites or remains, for example: artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls requires that all work in the immediate area shall cease. Immediately notify the Planning Director. Work can only proceed with an archeological clearance from the Planning Director. The archeological clearance requires a finding that sufficient mitigation measures be taken for the discovery with written guidance from the State of Hawaii DLNR Historic Preservation Division.
- 5. HRA Approval Requirement. The proposed project requires review & approval by the Hawaii Redevelopment Agency before the issuance of Final Plan Approval or a Building Permit, whichever is applicable.
- 6. Hawaii County DPW (Department of Public Works). This project is required to comply with the county codes & standards on the disposal of on-site generated runoff; driveway connections to a county road; flood control zones; earthwork & grading; and, temporary structure permits or the county Building Code. To determine compliance requirements, contact & consult with DPW Engineering, Traffic Division (ph: 961-8327), & Building Division (ph: 961-8331). DPW Memorandum re: TMK: 2-3-09: 18 (July 8, 1999) is incorporated as a part of SMA Minor Permit No. 81, condition 6. Copy attached.
- 7. Hawaii County Fire Department. Consult with the Fire Department to determine the requirements for a Fire Department permit and to apply to the Fire Board of Appeals for a waiver of the setback from the property line. Contact person: Chief Fire Inspector (ph. 961-8350 / 8346).

APPROVAL:
VIRGINIA GOLDSTEIN
Planning Director

JUL 2 0 1999

Date

DEPARTMENT OF PUBLIC WORKS

COUNTY OF HAWAII HILO, HAWAII

DATE: July 8, 1999

Memorandum

TO:

Planning Department

Department of Rublic Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION

No. 99-18 for SMA Minor Permit No. 81

Applicant: James Keliipaakaua, Jr., Landowner

Request: Open Market for Retail Sale of Personal Goods

Location: South Hilo, Hawaii

TMK: 2-3-09: 018

We have reviewed the subject application and our comments are as follows:

- Structures shall conform to all requirements of code and statutes pertaining to 1. building construction.
- The Building Division opposes the approval of the application for the following 2. reasons: (1) The canopy tent does not meet the minimum setback from the dive shop boundary. (2) The storage of flammable materials under the tent is prohibited and shall be removed. (3) Owners shall comply to other Fire Department requirements.
- 3. The subject property is within Flood Zone VE, according to the Flood Insurance Rate Map dated September 16, 1988. The proposed canopy and storage structure are within the designated flood zone and will be subject to the requirements of Chapter 27 - Flood Control, of the Hawaii County Code. The requirements of Chapter 27 do not apply to temporary tents as stated in Section 27-5(b)(3).
- All earthwork and grading shall conform to Chapter 10 Erosion and Sediment Control, of the Hawaii County Code. Filling or the use of fill material within the subject site is prohibited.

Memo to the Planning Department Page 2 July 8, 1999

- 5. All development generated runoff shall be disposed on site and shall not be directed toward adjacent properties.
- 6. The Traffic Division comments are as follows: (1) Provide security police for vehicles and pedestrian safety. (2) Provide adequate off-street parking.

Should there be any questions concerning this matter, please feel free to contact Casey Yanagihara in our Engineering Division at ext. 8327.

CKY:kg

Harry Kim Mayor

Wil Okabe Managing Director

> West Hawai'i Office 74-5044 Ane Keohokalole Hwy Kailua-Kona, Hawai'i 96740 Phone (808) 323-4770 Fax (808) 327-3563



County of Hawai'i

PLANNING DEPARTMENT

Michael Yee

Duane Kanuha
Deputy Director

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

February 8, 2019

Mr. Seth Warner Project Manager P.O. Box 884 Volcano, HI 96785

Dear Mr. Warner:

SUBJECT: Amendment to Special Management Area Minor Permit No. 81

(SMM No. 81)

Applicant:

Tammy Tran
Tammy Tran

Land Owner: Request:

Construct a Permanent Farmer's Market Structure that

Will Operate Seven (7) Days a Week

Tax Map Key: (3) 2-3-009:018, Por., Hilo Town, Hawai'i

This is sent in response to your letter received on October 9, 2018, requesting to amend Special Management Area Minor Permit No. 81 (SMM No. 81), and allow for the construction of a permanent farmer's market structure that will operate seven (7) days a week on the subject property.

SMM No. 81, approved on July 20, 1999, allowed for an open market to sell personal goods (e.g. flowers and fruits). Final Plan Approval dated April 7, 2000, stated that use of the farmer's market's temporary tent structure was limited to two days per week.

The subject 1,219 square-foot parcel is zoned Downtown Hilo Commercial District (CDH) by the County of Hawai'i and designated Urban by the State Land Use Commission. It is designated High Density Urban by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. It is also in the Special Management Area; however, it is not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS) Chapter 205A-41.

Special Management Area Determination:

Although the proposed project is to allow for a permanent structure instead of the tent, and an operation of seven days a week instead of only two days, it is still consistent with the farmer's

Mr. Seth Warner February 8, 2019 Page 2

market use that was approved by SMM No. 81. Further, it will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA.

In view of the above, Special Management Area Minor Permit No. 81 is amended, enclosed, and hereby issued to construct a permanent farmer's market structure to operate seven (7) days a week on the subject parcel. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have any questions, please contact Esther Imamura of this department at (808) 961-8139.

Sincerely,

AL MICHAEL YEE

Planning Director

ETI:jaa

P:\Wpwin60\CZM\SMM\2019\SMM 81L (Amend) Warner Tran. Doc

Encl.: SMM No. 81 (Amended)

Drawing No. S 0.0

cc: Mr. Leo Asuncion, Director

Office of Planning, DBEDT

State of Hawaii Department of Business, Economic

Development & Tourism

P.O. Box 2359

Honolulu, HI 96804-2359

Harry Kim Mayor

Wil Okabe Managing Director

West Hawai'i Office 74-5044 Ane Keohokalole Hwy Kailua-Kona, Hawai'i 96740 Phone (808) 323-4770 Fax (808) 327-3563



Michael Yee Director

Duane Kanuha Deputy Director

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

Special Management Area Minor Permit No. 81 (Amended)

Project:

Construct a Permanent Farmer's Market Structure that Will Operate Seven

(7) Days a Week

Applicant:

Tammy Tran Landowner: Tammy Tran

Location: TMK:

Hilo, Hawai'i

(3) 2-3-009:018

Land Area: 1,219 square feet

Applicant's Request

1. Project Description:

The applicant is proposing to construct a permanent farmer's market structure that will operate seven (7) days a week.

2. Purpose of Project:

On July 20, 1999, SMM No. 81 was approved to allow for an open market to sell personal goods (e.g., flowers and fruits). Final Plan Approval dated April 7, 2000, stated that use of the farmer's market's temporary tent structure was limited to two days per week.

The farmer's market subsequently closed and all structures were removed. However, a request was received on October 9, 2018, to amend SMM No. 81 and re-establish the farmer's market in a permanent structure that would be open seven days a week.

3. Determination:

Although the proposed project is to allow for a permanent structure instead of the tent and an operation of seven days a week instead of only two days, it is still consistent with the farmer's market use that was approved by SMM No. 81.

State and County Plans

- 1. State Land Use District: The parcel is located in the State Land Use Urban district.
- 2. General Plan: The parcel is designated as High Density Urban by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning: The parcel is zoned Downtown Hilo Commercial District (CDH) by the County of Hawai'i.

- **4. Special Management Area:** The subject property is located entirely within the SMA, but it is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).
- 5. Flood Zone: VE

Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area

Check all objectives and policies found to be consistent with proposed development. Issuance of SMA Minor Permit requires that activity be consistent with all objectives & policies.

The proposed development is consistent with the following objectives and policies:

- 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. 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 the elimination of planning options.
- The proposed development is consistent with the Hawai'i County General Plan and the Zoning Code.
- The proposed development does not conflict with the following objectives of Chapter 205A, HRS, to:
 - Provide coastal recreational opportunities accessible to the public.
 - Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence and pollution.
 - Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - Stimulate public awareness, education, and participation in coastal management.
 - ☑ Protect beaches for public use and recreation.
 - Promote the protection, use, and development of marine and coastal resources to assure their sustainability.
- The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:

 $\overline{\mathbf{X}}$ Recreational Resources |X|Historic Resources $|\mathbf{X}|$ Scenic and Open Space Resources XCoastal Ecosystems X Economic Uses X Coastal Hazards X Managing Development X **Public Participation**

Beach Protection

Environmental Impact Statements.

☑ Marine Resources

The proposed development conforms to the requirements of Chapter 343, HRS, regarding

Findings

- 1. As discussed above, 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.
- 2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
- 3. The estimated project cost of \$38,000 is not in excess of \$500,000.
- 4. The property is in Flood Zone VE.

X

X

5. Pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 81 (Amended) is hereby approved to construct a permanent farmer's market structure that will operate seven (7) days a week, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

This SMA Minor Permit No. 81 (Amended) is subject to the following conditions:

- 1. The applicants, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- 2. The applicants shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
- 3. All construction shall comply with Chapter 27, Floodplain Management, of the Hawai'i County Code.
- 4. Submit for Final Plan Approval from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code, within one (1) month from the date of this letter.

- 5. Building permit(s) required by the Department of Public Works Building Division for the construction of the permanent farmer's market structure shall be submitted within six (6) months from the date of this letter.
- 6. Best Management Practices must be followed to ensure the grounds surrounding the project area is kept clear of any rubbish or debris resulting from the landscaping and construction activities at all times.
- 7. Any further uses, activities or operations proposed for the subject property shall require further review and approval as provided under Chapter 205A of the Hawai'i Revised Statutes, and Rule 9 of Planning Commission Rules of Practice and Procedure. Should the cost of any new activities or operations not included in the subject proposal but related to the subject undertaking move the total valuation of the project over \$500,000, this permit will be deemed void and a Special Management Area "Major" Use Permit will be required for the project.
- 8. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651 for further guidance. The applicants shall also notify the Planning Department immediately after contacting the DLNR-SHPD.
- 9. An extension of time for the performance of the conditions contained herein may be granted by the Planning Director upon concurrence with the Department of Public Works, Building Division.
- 10. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

If you have any questions, please feel free to contact Esther Imamura at (808) 961-8139.

APPROVED:

MICHAEL YEE

Planning Director

February 8th, 2019

