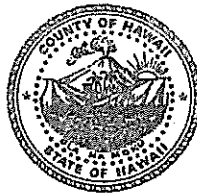


Harry Kim  
Mayor



Christopher J. Yuen  
Director

Roy R. Takemoto  
Deputy Director

**County of Hawaii**  
**PLANNING DEPARTMENT**  
101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043  
(808) 961-8288 • Fax (808) 961-8742

November 6, 2003

Mr. Stephen J. Herbert  
75-366 Hoene Street  
Kailua-Kona, Hawaii 96740

Dear Mr. Herbert:

**Special Management Area Assessment Application No. 03-063**  
**Special Management Area Minor Permit No. 145 (SMM 145)**  
**Project: Construction of an Open Air Pavilion**  
**Applicant: Stephen J. Herbert, Consultant**  
**Land Owner: St. Michael's Catholic Church**  
**Location: Hienaloli 2<sup>nd</sup>, North Kona, Hawaii**  
**TMK: (3) 7-5-008:006**

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By this letter we are transmitting the referenced SMA Minor Permit No. 145, which is approved, subject to conditions, for the construction of a new 600-square foot pavilion on the subject property. The pavilion is to be used by the applicant to conduct sales of religious theme literature and collectibles.

Should you have questions, please feel welcome to call Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chi Yuen", is written over the printed name.

CHRISTOPHER J. YUEN  
Planning Director

LMB:mad  
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Mr. Stephen J. Herbert

Page 2

November 7, 2003

Enclosures - SMM No. 145

Department of Public Works October 30, 2003 Memo

xc w/encls: /Long Range Planning - Ms. Susan Gagorik  
Planning - Mr. Norman Hayashi  
Planning Department - West Hawaii Office

St. Michael's Catholic Church  
75-5769 Alii Drive  
Kailua-Kona, Hawaii 96740

**Special Management Area Minor Permit No. 145**

**Project:** Construction of an Open Air Pavilion  
**Applicant:** Stephen J. Herbert, Consultant  
**Land Owner:** St. Michael's Catholic Church  
**Location:** Hienaloli 2<sup>nd</sup>, North Kona, Hawaii  
**TMK:** (3) 7-5-008:006                      **Land Area:** 3.19 acres

<b>Applicant's Request</b>
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**1. Project Description:**

The landowner proposes to construct a 600 square foot open-sided pavilion on the grass lawn driveway-island fronting the existing St. Michael's Church.

**2. Purpose of Project:**

The structure is proposed for use as a sales pavilion on Sunday mornings to offer religious theme literature and collectibles.

**3. Project Valuation:** \$9,000.00

**4. Determination:**

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(v) relating to the Special Management Area, the construction, reconstruction, or alteration of the size of any structure is defined as "development." Therefore, the proposed construction of a detached 600 square foot pavilion requires a SMA Minor Permit.

### State and County Plans

1. **State Land Use District:** The subject property is designated Urban by the State Land Use Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the project site for Resort uses, which allows for hotels, condominiums and supporting services intended to satisfy the needs and desires of both visitors and residents.
3. **Kailua Village Design Plan (KVDP):** The subject property is situated in the Kailua Village Design District making the proposed improvement subject to review by the Kailua Village Design Commission.
4. **County Zoning:** The subject property is zoned Resort-Hotel (V-.75) by the County. Churches, temples, and synagogues are listed among the permitted uses in the V district.
5. **Special Management Area:** The subject property is located in the SMA.
6. **Flood Zone:** The Flood Insurance Rate Map (FIRM) designation for the project site is "AE."

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

The project site is not a shoreline property. Therefore, the proposed improvements will not affect the recreational resources available to the public.

There may be some adverse visual impact from the proposed placement of the pavilion between Alii Drive and St. Michael's Church, which will partially obstruct pedestrian and motorist views of the church from Alii Drive. Because St. Michael's Church is listed on the state inventory of historic sites and in view of previous assertions by the applicant to apply for recognition on the State of Hawaii Register of Historic Sites, the Planning Department strongly recommends that the applicant consider relocation of the proposed pavilion so as not to obstruct the view of St. Michael's Church from Alii Drive.

The proposed pavilion shall be constructed in accordance with DPW requirements designated for new construction in the "AE" flood zone.

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 Hawaii 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:
  - ☒ Recreational Resources
  - ☒ Historic Resources
  - ☒ Scenic and Open Space Resources
  - ☒ Coastal Ecosystems
  - ☒ Economic Uses
  - ☒ Coastal Hazards
  - ☒ Managing Development
  - ☒ Public Participation
  - ☒ Beach Protection
  - ☒ Marine Resources
- ☒ The proposed development conforms to the requirements of Chapter 343, HRS, Environmental Impact Statements.

## Findings

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.

The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$9,000 is not in excess of \$125,000.

Upon review of the subject application by the Department of Public Works – Engineering Division, the project is in compliance with Chapter 27, Flood Control, of the Hawaii County Code.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 145** is hereby approved to allow the construction of 600-square foot sales pavilion, subject to the applicant's compliance with the conditions of approval as specified below.


## Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 145** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Applicant shall secure Plan Approval from the Planning Department for the proposed development.
3. Applicant shall secure approval of the proposed project from the Kailua Village Design Commission for compliance with the provisions of the Kailua Village Design Plan 1988 prior to the granting of Plan Approval by the Planning Department.
4. Commercial use of the pavilion shall be limited to the sales of religious theme literature and collectibles being offered by the applicant. Use of the facility by any other for profit or not-for-profit vendors shall be prohibited without prior written approval from the Planning Director.
5. Hours of operation for commercial use of the pavilion shall be limited to 7:00 AM to 5:00 PM on Sundays and other religious holidays on which church services are being conducted.
6. All construction activities in connection with this project shall be completed within one (1) year from the date of approval of this permit. The applicant shall immediately notify the Planning Department, in writing, upon the completion of the construction activities.

7. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or wall be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when he finds that sufficient mitigative measures have been taken.
8. The applicant shall comply with all applicable requirements of the State of Hawaii-Department of Health and the Hawaii County-Department of Public Works and applicable requirements of other affected agencies.
9. An extension of time for the performance of the conditions contained herein 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 original reasons for the granting of the permit; and
  - c) The time extension granted shall be for a period of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
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.

APPROVED:

  
\_\_\_\_\_  
CHRISTOPHER J. YUEN  
Planning Director

11/6/03  
Date

DEPARTMENT OF PUBLIC WORKS  
COUNTY OF HAWAII  
HILO, HAWAII

2003 NOV 3 PM 1 09

DATE: October 30, 2003

PLANNING DEPARTMENT  
**Memorandum**

TO : Christopher J. Yuen, Planning Director  
Planning Department

FROM : Galen M. Kuba, Division Chief *GMK*  
*en* Engineering Division

SUBJECT : SMAA Application (SMAA 03-063 )  
Applicant: St. Michael's Catholic Church- Pavillion  
Location: Kailua-Kona, HI  
TMK: 3 / 7-5-008:006

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

Flood Zone "AE", affects the subject parcel as designated by the Flood Insurance Rate Map (FIRM), dated May 16, 1994, as amended by LOMR Case No. 95-09-498P dated June 14, 1995. Any new construction or substantial improvements within the flood zone will be subject to the requirements of Chapter 27 - Flood Control, of the Hawaii County Code.

According to our records, our Engineering Division approved the building permit for the construction of the proposed pavilion on August 13, 2001, finding the plans in compliance with Chapter 27, Flood Control.

Should there be any questions concerning this matter, please feel free to contact Kiran Emler of our Kona Engineering Division office at 327-3530.

KE

copy: ENG-HILO  
PLNG-KONA

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