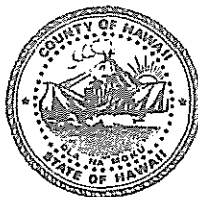


Estner

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • FAX (808) 961-8742

February 15, 2007

Mr. Joe Belisario
Hawaii Design Group
76-5660 Kopiko Street, Unit A-4
Kailua-Kona HI 96740

Dear Mr. Belisario:

**Subject: Special Management Area Use Permit Assessment Application (SAA 07-000222)
Special Management Area Minor Permit No. 07-000048
Applicant: Olu Kai, Ltd.
Request: Open Air Decorative Trellis
Tax Map Key: 7-5-9:16, Puaa 1, North Kona, Hawaii**

This is to follow up on our January 10, 2007 letter relating to the above-referenced Special Management Area assessment for an open air decorative trellis on the existing concrete slab between the existing liquor bar and the existing restrooms.

The subject property is zoned Resort-Hotel (V-.75) by the County and designated Resort by the General Plan Land Use Pattern Allocation Guide (LUPAG) Map. It is designated Urban by the State Land Use Commission.

SMA Minor Permit No. 45, issued on June 21, 1996, allowed for the construction of a 1,575 square foot at-grade concrete slab with fencing to accommodate an open-air dining area consisting of an open-air bar and portable tables and chairs. All improvements were to be situated a minimum of 20 feet from the existing seawall, whose makai face was defined as the certified shoreline on March 13, 1995.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)(A)(v) relating to Special Management Area, the proposal for an open air trellis within this area is considered "*Construction, reconstruction, or alteration of the size of any structure*" and defined as "development". Further, since the project area is outside the 20-foot shoreline setback area, the requirement of a certified shoreline survey is waived. Also, the proposed improvements will not have an adverse effect on the environment.

Mr. Joe Belisario
Hawaii Design Group
Page 2
February 15, 2007

Therefore, a Special Management Area Minor Permit is required. For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 07-000048 is hereby issued for the open air decorative trellis subject to the applicant's compliance with the conditions of approval as specified in the permit.

Finally, all other applicable Zoning and Building Code requirements must also be satisfied.

As a reminder, however, the Site/Floor Plan dated May 5, 2006 stated that the 20 feet shoreline setback area is to remain "undisturbed". Please note that no permanent structures or activities are allowed within this area. Daily placement of tables, chairs, market/patio umbrellas and a canopy for the low platform will be allowed within this area as long as they are removed at the close of business each day.

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8288, extension 257.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

ETI:cd

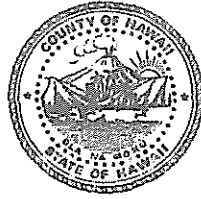
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Enclosure - SMM No. 07-000048

xc w/encls: Ms. Esther Imamura, Long Range Planning
Mr. Norman Hayashi, Planning Commission
Planning Department - Kona

xc ltr only: Ms. Laura H. Thielen, Director - Office of Planning, DBED&T
(SMM 07-000048 will be emailed with the semi-monthly report)

Harry Kim
Mayor



Christopher J. Yuen
Director

Brad Kurokawa, ASLA
LEED® AP
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

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(808) 961-8288 • FAX (808) 961-8742

Special Management Area Minor Permit No. 07-000048

Project: Open Air Decorative Trellis
Applicant: Olu Kai, Ltd.
Location: "Huggo's on the Rocks" Restaurant, Puaa 1, North Kona, Hawaii
TMK: 7-5-9:16 Land Area: 5,318 s.f.

Applicant's Request

1. Project Description:

The applicant proposes to install an open air trellis on the existing concrete slab between the existing liquor bar and the existing restrooms.

2. Purpose of Project:

The proposed structure will serve as a base to add more landscaping via hanging plants and foliage.

3. Project Valuation: \$20,000

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, demolition, or alteration of the size of any structure" is defined as "development." Therefore, the proposal for an open air decorative trellis between the existing liquor bar and the existing restrooms requires a SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Urban.
- 2. General Plan:** It is designated Resort by the Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
- 3. County Zoning:** The subject property is zoned Resort-Hotel (V-.75).
- 4. Special Management Area (SMA):** The subject property is located in the SMA. SMA Minor Permit No. 45 was issued on March 8, 1996 to allow for the

establishment of an open-air dining area consisting of a bar and portable chairs and tables, partially enclosed by a wooden fence. According to the application, "All improvements will be situated mauka of the existing seawall at least 20 feet from the certified shoreline, which runs along the makai face of the existing seawall".

Subsequently, by letter dated April 29, 1998, a time extension request of an additional two years to complete the improvements was granted.

5. **Flood Zone:** According to the February 7, 2007 memorandum from the Department of Public Works, "Flood Zone 'VE/AE' affects the subject parcel as designated by the Flood Insurance Rate Map (FIRM) dated May 16, 1994".

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area
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The subject area has frontage along the ocean. However, the project site is within an existing open air dining area. Therefore, the proposed project will not affect the recreational resources available to the public.

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 tsunamis, 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 \$20,000 is not in excess of \$125,000.

Upon review of the subject application, the Department of Public Works (DPW), Engineering Division has commented that *“Any new construction or substantial improvements within Parcel 16 will be subject to the requirements of Chapter 27-Flood Control, of the Hawaii County Code”*. Enclosed is a copy of their February 7, 2007 memorandum.

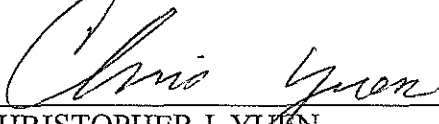
Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 07-000048** is hereby approved for the open air decorative trellis, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 07-000048, subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The applicant shall secure a building permit for the structure within one (1) year from the date of approval of this permit.
3. The applicant shall comply with all applicable requirements of other affected agencies.
4. The 20-foot shoreline setback area shall be kept clear of any permanent structures or activities at all times. Daily placement of tables, chairs, market/patio umbrellas and a canopy for the low platform will be allowed within this area as long as they are removed at the close of business each day.
5. 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).
6. 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

FEB 20 2007
Date

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PLANNING DEPARTMENT
COUNTY OF HAWAII

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: February 7, 2007

Memorandum

TO : Christopher J. Yuen, Planning Director
Planning Department

FROM : Galen M. Kuba, Division Chief 
Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 07-000222)
Applicant: Olu Kai, Ltd.
Location: Puaa 1, North Kona, Hawaii
TMK: 3 / 7-5-009:016

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

Flood Zone "VE/AE", affects the subject parcel as designated by the Flood Insurance Rate Map (FIRM), dated May 16, 1994. Any new construction or substantial improvements within Parcel 16 will be subject to the requirements of Chapter 27 - Flood Control, of the Hawaii County Code.

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

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copy: ENG-HILO/KONA
PLNG-HILO ✓

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