

Long Range

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 96720-4224
(808) 961-8288 • FAX (808) 961-8742

January 7, 2008

Mr. Kaimi Judd
Discovery Kohanaiki Management LLC
P O Box 9015
Kailua-Kona, HI 96745

Dear Mr. Judd:

Subject: Special Management Area (SMA) Assessment Application (SAA 07-000296)
Special Management Area Minor Permit No. 07-000072
Applicant: Kaimi Judd on behalf of Discovery Kohanaiki Management LLC
Land Owner: Kohanaiki Shores LLC
Request: Construct a Temporary Shade Structure
TMK: 7-3-9:3, Kohanaiki, North Kona, Hawaii

This is in response to your Special Management Area Use Permit Assessment Application received on November 5, 2007 to construct a temporary shade structure for marketing purposes on the subject property.

The portion of the 442.251-acre subject property where the proposed structure is to be located is zoned village commercial (CV-10) by the County and is designated as urban by the State Land Use Commission. It is located entirely within the SMA and has frontage along the coastline.

The temporary shade structure, which according to the application is 90% constructed, will be located in the southwest portion of the subject property within the Resident's Beach Facility area, on the same site as a future restroom facility that was approved in SMA Permit No. 439 on December 1, 2003. A letter dated June 22, 2007 from Mr. Dave Eadie of Rutter Development indicates that the temporary shade structure will be removed prior to commencement of construction of the restroom facility.

Mr. Kaimi Judd
Discovery Kohanaiki Management LLC
Page 2
January 7, 2008

Site Plan Sheet L1.02 dated January 23, 2007 shows the temporary shade structure will be located approximately 58 feet from the most current certified shoreline. The Planning Director waived shoreline certification for SMA Permit No. 439, and since the proposed temporary shade structure will be located approx 58 feet from the most recently certified shoreline, we will waive the requirement of a certified shoreline.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)A(v) development includes the "*Construction, reconstruction, demolition, or alteration of the size of any structure.*" Therefore, the construction of a temporary shade structure requires a Special Management Area Minor Permit.

For this reason and pursuant to Planning Commission Rule Section 9-10(E), Special Management Area Minor Permit No. 07-000072 is hereby issued to allow construction to be completed of a temporary shade structure to be used for marketing purposes on the subject parcel. It is the applicant/owner's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please feel free to contact Maija Cottle or Esther Imamura of this office at 961-8288, ext. 253 and 257, respectively.

Sincerely,

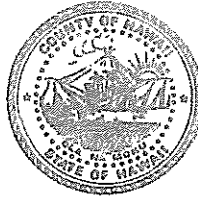


CHRISTOPHER J. YUEN
Planning Director

MJC:cd
P:\wpwin60\CZM\SMM\2007\SMM 07-72L Discovery Kohanaiki- Kaimi Judd.rtf

xc: Long Range Planning Division
Bennett Mark, West Hawaii Planning Office

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 96720-4224
(808) 961-8288 • FAX (808) 961-8742

Special Management Area Minor Permit No. 07-000072

Project: Construct Temporary Shade Structure
Applicant: Kaimi Judd on behalf of Discovery Kohanaiki Management LLC
Landowner: Kohaniki Shores LLC
Location: Kohanaiki, North Kona, Hawaii
TMK: 7-3-9:3 **Land Area:** 442.251 acres

Applicant's Request

1. Project Description:

The applicant proposes to construct a 16-foot high temporary shade structure on the subject property. The structure is 90% complete, and is located on the site of a future restroom facility that was approved in SMA Major Use Permit No. 439.

2. Purpose of Project:

The purpose of the temporary shade structure is to market the lifestyle of the future beach club at Kohanaiki for the purpose of real estate sales. The structure will primarily serve as a shade structure for the Kohanaiki Outdoor Pursuits Department which focuses on educating visitors about native Hawaiian traditional shoreline practices and recreation.

3. Project Valuation: \$25,000.

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)A(v) relating to the Special Management Area, "*Construction, reconstruction, demolition, or alteration of the size of any structure*" is not exempt from the definition of "development." Therefore, the proposed project requires an 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 area as Open.
3. **County Zoning:** The project area is zoned Village Commercial (CV-10).
4. **Special Management Area (SMA):** The subject property is located entirely within the SMA, and has frontage along the coastline. The proposed temporary shade structure is located approximately 58 feet from the most current certified shoreline.
5. **Flood Zone:** Flood Zone AE.

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

The project area has frontage along the coastline but the proposed improvements will not affect public access to the shoreline or public use of the shoreline 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 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, regarding Environmental Impact Statements.

Findings

As discussed above, construction of the proposed structure 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 \$25,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated December 20, 2007, stated the following:

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

We have determined that the subject property is located within Flood Zone "AE" according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

In general new construction or substantial improvements within the subject property are subject to the requirements of Chapter 27 - Flood Control, of the Hawaii County Code. However, the proposed structure shown on the application has no walls and therefore is not subject to regulation under Chapter 27. Alteration (grading) of a coastal dune is prohibited."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 07-000072** is hereby approved for the construction of a temporary shade structure on the subject parcel for marketing purposes. This approval is 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. 07-000072** 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 all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. The applicant shall obtain plan approval prior to completing construction of the temporary shade structure in accordance with Zoning Code Section 25-2-71(a).
4. The applicant shall secure a building permit and complete construction of the temporary shade structure 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.
5. A photograph of the construction site provided in the application shows a construction barrier around the site. The applicant shall continue to provide a construction barrier around the project area to prevent construction debris and runoff sedimentation from impacting the ocean waters. The barrier shall remain in place until the Building Division has granted final approval for the Building Permit issued for construction of the temporary shade structure.
6. Alteration (grading) of the coastal dune is prohibited.

7. The temporary shade structure shall be constructed outside all of the following buffers established in SMA Major Use Permit No. 439: 400-foot buffer from the National Park boundary, anchialine pond buffers, Mamalahoa Trail buffers, and historical sites buffers.
8. 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).
9. 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

1 JAN 07 2008

Date