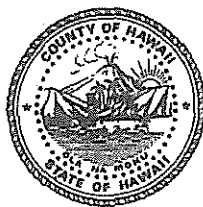


William P. Kenoi
Mayor



Daryn S. Arai
Acting Planning Director

County of Hawaii

PLANNING DEPARTMENT

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720
Phone (808) 961-8288 • Fax (808) 961-8742

January 29, 2009

Mr. Timothy E. Bruya
3249 S. High Drive
Spokane, WA 99203

Dear Mr. Bruya:

Subject: Special Management Area (SMA) Assessment Application (SAA 09-000398)
Special Management Area Minor Permit No. 09-000097
Applicant(s): Timothy E Bruya
Owner(s): Timothy E Bruya/ Margaret A Trust
Request: Construction of Second Floor Lanai
TMK: (3) 7-5-019:003:0094; Portion of Kahului 1st and 2nd, North Kona, Hawaii

This letter is in response to the Special Management Area Assessment Application (SMAA) we received on December 22, 2008 for the construction of a second floor lanai, above the existing first floor lanai. This is for Unit 4101 of the Sea Village Condominiums.

The parcel has a total of 4.4898 acres, and is zoned Resort-Hotel- 1,250 sq. ft per dwelling unit (V-1.25) by the County of Hawaii. It is designated Urban by the State Land Use Commission, and the Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the parcel as Open and Medium Density Urban. The parcel is located entirely within the Special Management Area (SMA).

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(10)A(v) relating to the Special Management Area, the proposed construction does not qualify as exempt from the definition of "development". Therefore, a Special Management Area Minor Permit is required.

Mr. Timothy E. Bruya

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January 29, 2009

For this reason and pursuant to Planning Commission Rule No. 9-10(E), Special Management Area Minor Permit No. 09-000097 is hereby issued to allow for the proposed construction of the second floor lanai on unit 4101. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please feel free to contact Bethany Morrison of this department at 961-8288, extension 252.

Sincerely,



DARYN S. ARAI

Acting Planning Director

BJM:cs

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Enclosure: SMM No. 09-000097
Memorandum from Department of Public Works

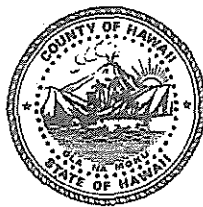
cc w/encls: Long Range Planning Division

Planning Department- Kona

Clean Water Branch
Environmental Management Division
State Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378

cc ltr only: Mr. Abbey S. Mayer, Director
State of Hawaii, Office of Planning
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, HI 96804

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Special Management Area Minor Permit No. 09-000097

Project: Construct a 16' x 10' Lanai on the Second Floor
Applicant: Timothy E Bruya
Land Owner: Timothy E Bruya/ Margaret A Trust
Location: Portion of Kahului 1st & 2nd, North Kona, Hawaii
TMK: (3) 7-5-019:003:0094 **Land Area:** 4.4898 acres

Applicant's Request

1. Project Description:

The applicant proposes to construct a 16' x 10' lanai on the second floor, above the existing first floor lanai. This is for Unit 4101 of the Sea Village Condominiums. The lanai is proposed to match the footprint of the existing first floor lanai directly below.

2. Purpose of Project:

The purpose of the project is to construct a lanai on the second story of the condominium unit in order to maximize the enjoyment and recreational use of the unit.

3. Project Valuation: \$10,000-\$15,000.

4. Determination:

The proposed construction of the lanai is considered "development" and requires either a Special Management Area Minor Permit or a Special Management Area (Major) Use Permit.

State and County Plans

- 1. State Land Use District:** The subject property is designated Urban by the State Land Use (SLU) Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Open and Medium Density Urban.

3. **County Zoning:** The subject property is zoned Resort-Hotel -1,250 sq. ft per dwelling unit (V-1.25) by the County of Hawaii.
4. **Special Management Area (SMA):** The subject parcel is located entirely within the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone VE.

<p style="text-align: center;">Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area</p>

The project area does have frontage along the coastline. However, the proposed construction is to occur on the second story and will not effect or impede the public access along the coastline. Therefore, the proposed construction 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, regarding 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 \$10,000-\$15,000 is not in excess of \$125,000.

By enclosed memorandum dated January 14, 2009, the Department of Public Works, Engineering Division had the following comments:

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

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

Any new construction or substantial improvements within the subject property will be subject to the requirements of Chapter 27-Flood Control, of the Hawai'i 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.


Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000097** is hereby approved for the proposed second floor lanai, 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. 09-000097** 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 area makai of the 40-foot shoreline setback line shall be kept clear of any rubbish or debris resulting from construction activities at all times.
4. A construction barrier, meeting with the approval of the Planning Director, shall be erected along the front of the subject unit. This will ensure that no construction materials or debris are inadvertently placed in the shoreline setback area. The barrier shall be erected prior to the commencement of construction activities and shall remain in place until the Building Division has granted the final inspection for the lanai.
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:



DARYN S. ARAI
Acting Planning Director

1/29/09

Date