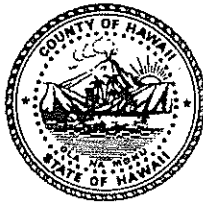


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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Special Management Area Minor Permit No. 09-0000135

Project: Construction of a New Rock/Masonry Utility Building
Applicant: Keauhou Kona Construction Corp., Roger Harris
Location: Old Kailua Airport, North Kona, Hawai'i
TMKs: 7-5-005:063
Land Area: 4.994 acres

Applicant's Request

1. Project Description:

The applicant proposes to construct a rock/masonry utility building, approximately 44'x32'x10' high on the subject parcel.

2. Purpose of Project:

The utility building will house electric meters, power lines, water lines, and air conditioning equipment on the subject parcel. This utility building will be placed next to an existing driveway which serves as a utility easement for a neighboring parcel. The equipment in the proposed utility building will connect to the utility lines in the easement to provide utilities for parcel 7-5-005:012.

3. Project Valuation: \$88,550.

4. Determination:

According to Chapter 205A-22(2), Hawaii Revised Statutes (HRS), and Planning Commission (PC) 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 a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** Urban
2. **General Plan:** Open and Resort Node
3. **County Zoning:** Residential (RS-15)
4. **Special Management Area (SMA):** The parcel is all located in the SMA, and has frontage along the coastline.
5. **Flood Zone:** Zone X as designated on the Flood Insurance Rate Map (FIRM).

Compliance with Objectives and Policies of Chapter 205A, Hawaii 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 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, 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 \$88,550 is not in excess of \$125,000.

The enclosed Department of Public Works memorandum dated December 18, 2009, stated the following:

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

We have determined that the proposed structure is located within Flood Zone 'X' according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The structure, if sited as proposed, is not subject to regulation under Chapter 27 - Floodplain Management, of Hawai'i County Code.

The above information is based on the most recent FIRM for the County of Hawai'i. Zone 'X' is not a designated Special Flood Area. This does not imply that the referenced property will be free from flooding or flood damage. A property not in a Special Flood Hazard Area may be damaged by a greater flood than that predicted on the FIRM or from a local drainage problem not shown on the map."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000135** is hereby approved for the construction of a new rock/masonry utility building on the subject parcel. 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. 09-000135** 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 Building Permit for the proposed utility building shall be secured within two (2) years from the date of approval of this permit.
4. The building must be sited as represented in the submitted plans. Any desired adjustment in the location will require written clearance from Department of Public Works for compliance with Chapter 27, Flood Plain Management, and written approval from the Planning Director to ensure compliance with shoreline setback rules.
5. Neither the landowner nor any agent of the landowner or its successors shall, at any time, impede or otherwise restrict lateral public access along the shoreline within the 40-foot shoreline setback area. In addition, it is the Planning Department's aim to secure lateral public access from Kona Bay Estates subdivision through the subject parcel on to Kailua Bay and pier. Should public access be secured from neighboring parcels in the future to achieve this goal, then the subject parcel will also be required to create a public access easement to provide connection to neighboring parcels for public access.

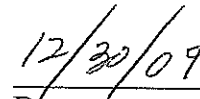
6. A construction barrier, meeting with the approval of the Planning Director, shall be erected around the construction site prior to the commencement of construction activities and shall remain in place until final inspection has been granted for the improvements.
7. No construction activities, including, but not limited to, the stockpiling of construction materials, rubbish or debris, shall occur within the 40-foot shoreline setback area.
8. If a concrete mix machine is to be utilized, the equipment must first be contained and measures taken to prevent spillage. Please contact our Kona Zoning Inspectors at 327-3510 to set up a site inspection to verify compliance with this condition.
9. The construction barrier must be shown and properly noted on the plans submitted with any permits required for any land altering or construction activities. The construction notes on the plans must include the following statement, "The construction barrier must be erected prior to any land altering or construction activities, and must remain in place until final inspection by Department of Public Works. No construction activities, including but not limited to the stockpiling of construction materials, rubbish or debris, shall occur within the 40-foot shoreline setback area."
10. Artificial light from exterior lighting fixtures, including, but not necessarily limited to floodlights, uplights or spotlights used for decorative or aesthetic purposes shall be prohibited if the light directly illuminates, or is directed to project across property boundaries toward, the shoreline and ocean waters, except as may otherwise be permitted pursuant to PC Rule 9-11.1 and Section 205A-71(b), Hawaii Revised Statutes.
11. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, petroglyphs, or walls will require that all work in the immediate area shall cease. The Planning Director shall be immediately notified. Work may proceed with an archaeological clearance from the Planning Director. The archaeological clearance requires a finding that sufficient mitigative measures are taken for the discovery; with written guidance from the State Historic Preservation Division of the Department of Land and Natural Resources.
12. 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 determination; 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).
13. The Planning Director shall initiate procedures to revoke this determination should any of the conditions not be met or substantially complied with in a timely fashion.

APPROVED:



BJ LEITHEAD TODD
Planning Director



Date