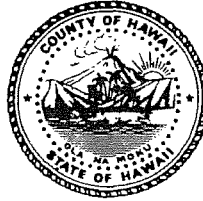


William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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

November 9, 2009

Steven S.C. Lim, Esq.
Carlsmith Ball LLP
P.O. Box 686
Hilo HI 96720-0686

Dear Mr. Lim:

SUBJECT: Special Management Area Use Permit Assessment Application (SAA 09-000493)
Special Management Area Minor Permit No. 09-000132
Applicant: Hawai'i Conference Foundation
Request: "As-built" Meeting Facility, Building "B"
Tax Map Key: 7-8-12:45, Keauhou, North Kona, Hawai'i

This is to follow up on our October 20, 2009 letter relating to the above-referenced Special Management Area Assessment for the "as-built" meeting facility, Building "B", on the subject parcel.

This 26,014 sq. ft. parcel is designated Urban by the State Land Use Commission and is zoned Single Family Residential (RS-10) by the County. Although it is located in the Special Management Area, the project site does not have frontage along the coastline and is mauka of a dwelling (Building "A") and the swimming pool.

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, a meeting facility is considered "*Construction, reconstruction, demolition or alteration of the size of any structure*" and defined as "development". 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. 09-000132 is hereby issued to allow for the "as-built" meeting facility, subject to the applicant's compliance with the conditions of approval as required by the permit.

NOV 10 2009

Steven S.C. Lim, Esq.
Carlsmith Ball LLP
Page 2
November 9, 2009

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

Should you have questions, please feel free to contact Esther Imamura of this department at 961-8139.

Sincerely,



BJ LEITHEAD TODD
Planning Director

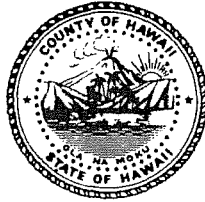
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Enclosures - SMM No. 09-000132
Department of Public Works October 26, 2009 Memo

xc w/encls: Long Range Planning
Mr. Randy Lovato, Kona Zoning Inspector
Mr. Norman Hayashi, Planning Commission
Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T

William P. Kenoi
Mayor



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Special Management Area Minor Permit No. 09-000132

Project: "As-built" Meeting Facility, Building "B"
Applicant: Hawai'i Conference Foundation
Location: Keauhou, North Kona, Hawai'i
TMK: 7-8-12:45 **Land Area:** 26,014 sq. ft.

Applicant's Request

1. Project Description:

The applicant is seeking approval for the "as-built" 672 square foot meeting facility constructed without permits. The applicant proposes to construct an ohana dwelling and related improvements.

2. Purpose of Project: Building "B" will be utilized as a meeting facility for classroom activities and church related functions.

3. Project Valuation: \$65,000

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 "as-built" meeting facility 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: According to the Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map, the parcel appears to be Open.

3. **County Zoning:** The subject property is zoned Single Family Residential (RS-10). According to the Hawai'i County Code, Chapter 25, Zoning, Section 25-5-3, uses permitted in the RS district includes "meeting facilities". Section 25-1-5(b) defines "meeting facilities" as *"a permanent facility for nonprofit recreational, social or multi-purpose use, which has no overnight accommodations, and which may be for organizations operating on a membership basis for the promotion of members' mutual interests or may be primarily intended for community purposes. Typical uses include private clubs, union halls, community centers, and student centers."*
4. **Special Management Area (SMA):** The subject property is located in the SMA and has frontage along the coastline. However, Building "B" is mauka of a dwelling (Building "A") and the swimming pool. Further, the project site is over 40 feet from and 26 lineal feet above the shoreline.
5. **Flood Zone:** Zone X – not a designated Special Flood Hazard Area.

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

The subject property has frontage along the coastline. However, the project site is mauka of a dwelling (Building "A") and the swimming pool. Therefore, the "as-built" meeting facility 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 construction cost of \$65,000 is not in excess of \$125,000.

By memorandum dated October 26, 2009, the Department of Public Works, Engineering Division stated that:

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

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

The above information is based on the most recent FIRM for the County of Hawai'i. Zone "X" is not a designated Special Flood Hazard Area. A Zone "X" designation 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. Should a watercourse affect the property, it shall not be altered without first obtaining approval from DPW and a grading permit. A flood study may be required under Chapter 27 of Hawai'i County Code for watercourse alterations."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 09-000132** is hereby approved for the "as-built" meeting facility, 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. 09-000132** 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 Plan Approval for the "as-built" meeting facility within one (1) year from the date of approval of this permit.
3. The applicant shall secure a building permit for the "as-built" meeting facility 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 building permit requirements.
4. The applicant shall comply with all applicable requirements of the State Department of Health, the Hawaii County Department of Public Works and applicable requirements of other affected agencies.
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.

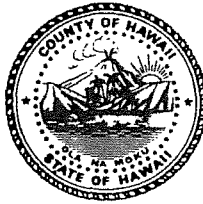
APPROVED:

NOV 10 2009


BJ LEITHEAD TODD

Date

William P. Kenoi
Mayor



BJ Leithead Todd
Director

Margaret K. Masunaga
Deputy

County of Hawai'i

PLANNING DEPARTMENT

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August 27, 2010

Mr. Steven S.C. Lim, Esq.
Carlsmith Ball LLP
P.O. Box 686
Hilo HI 96720

Dear Mr. Lim:

Subject: Notice of Revocation

- 1) Special Management Area Minor Permit No. 09-000132
- 2) Final Plan Approval (PLA-09-000573)

Applicant: Hawai'i Conference Foundation

Tax Map Key: 7-8-12:45, Keauhou 1st, North Kona, Hawai'i


This is in response to your August 24, 2010 letter requesting that the Planning Department rescind and revoke the following:

- 1) Special Management Area Minor Permit No. 09-000132 dated November 9, 2009
- 2) Final Plan Approval No. PLA-09-000573 dated November 12, 2009

Based upon your request, we hereby revoke Special Management Area Minor Permit No. 09-000132 and Final Plan Approval No. PLA-09-000573.

If you have questions, please feel free to contact Esther Imamura of this office at 961-8139.

Sincerely,


BJ LEITHEAD TODD
Planning Director

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AUG 27 2010

Mr. Steven S.C. Lim, Esq.

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August 27, 2010

xc: Long Range Division
Administrative Permits Division
Planning Department – Kona

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