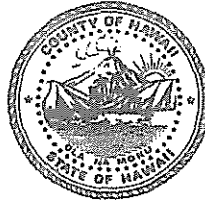


William P. Kenoi
Mayor



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

May 20, 2010

Mr. Peter J. Piper
Piper Designs
75-5944 Kuakini Hwy, Suite 2
Kailua-Kona HI 96740

Dear Mr. Piper:

Subject: Special Management Area Use Permit Assessment Application (SAA 10-000564)
Special Management Area Minor Permit No. 10-000150
Applicant: Peter J. Piper
Request: "As-Built" Wall, Replacement of the Wood Steps and Handrails,
and Demolition of Unpermitted Office, and Bar/Countertop
Land Owner: LRG Real Estate LP and PFP Anekona LP
TMK: 7-5-9:25, North Kona, Hawai'i
Land Owner: Anekona LLC and Eugene K. Gregory Tr.
TMK: 7-5-9:27, North Kona, Hawai'i

This is to follow up on our May 4, 2010 letter relating to the above-referenced Special Management Area assessment for the "as-built" wall, replacement of the wood steps and handrails, and demolition of the unpermitted office, bathroom and bar/countertop on the subject parcels.

Although they are in the Special Management Area, these parcels do not have frontage along the coastline and is mauka of Ali'i Drive.

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission Rule No. 9-4(e)(1)(E) relating to Special Management Area, the "as-built" wall, replacement of the wood steps and handrails, and demolition of the unpermitted office, bathroom and bar/countertop are 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.

Mr. Peter J. Piper
Piper Designs
Page 2
May 20, 2010

For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management Area Minor Permit No. 10-000150, is hereby issued to allow for the "as-built" wall, replacement of the wood steps and handrails, and demolition of the unpermitted office, bathroom and bar/countertop, subject to the applicant's compliance with the conditions of approval as required by the permit.

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

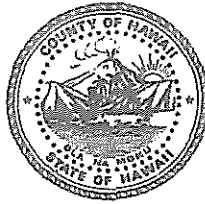
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Enclosures - SMM No. 10-000150
Department of Public Works May 14, 2010 Memo

cc w/Encls: Long Range Planning
Planning
Planning Department – Kona
Mr. Abbey S. Mayer, Director – Office of Planning, DBED&T

William P. Kenoi
Mayor



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Director

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Special Management Area Minor Permit No. 10-000150

Project: "As-built" Wall, Replacement of the Wood Steps and Handrails, and Demolition of Unpermitted Office, Bathroom and Bar/Countertop

Applicant: Peter J. Piper

Land Owner: LRG Real Estate LP and PFP Anekona LP

TMK: 7-5-9:25, North Kona, Hawai'i

Land Owner: Anekona LLC and Eugene K. Gregory Tr.

TMK: 7-5-9:27, North Kona, Hawai'i

Applicant's Request

1. Project Description:

PUD 60, approved by the Planning Director on January 21, 1999, allowed for the connection of two commercial buildings. The applicant proposes the following:

A. Improvements:

- i. Parcel 25: The "as-built" 8-foot high wood frame wall. It is attached to existing support columns and runs along the south side of the exterior wooden walkway adjacent to the ABC Store.
- ii. Parcel 27: The removal of existing wood steps and handrails and replacement with new concrete steps and metal handrails at the edge of the existing concrete deck (seating area) fronting Bongo Ben's Café. The existing steps are encroaching into the County's right-of-way on Ali'i Drive.

B. Demolition of unpermitted structures on Parcel 27, between Bongo Ben's Café and ABC Store:

- i. Removal of an office and bathroom located in the outdoor seating area.
- ii. Removal of a bar/countertop located near the west end of the outdoor seating area.

2. Purpose of Project:

The project is to satisfy partial requirements of Notice of Violation and Order (ZCV 2008-149W) and Special Management Area Violation (SMA/V 08-149W).

3. Project Valuation: \$20,000.

4. **Determination:** Chapter 205A-22, HRS and Planning Commission Rule 9-4(e)(1)(E) relating to the Special Management Area, states that "development" includes "Construction, reconstruction, demolition, or alteration of the size of any structure." Therefore, the proposal

for the “as-built” wall, replacement of the wood steps and handrails, and demolition of the unpermitted office, bathroom and bar/countertop requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** Urban.
2. **General Plan:** Open, Resort Node, and Medium Density Urban.
3. **County Zoning:** Resort-Hotel (V-.75).
4. **Special Management Area (SMA):** Although both parcels are located within the SMA, they are mauka of Ali'i Drive.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located within Flood Zone “X”.

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

Since the proposed activity is on the mauka (inland) side of Ali'i Drive, the requirement to obtain a certified shoreline survey is waived.

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 tsunامي, 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 ecological effect, except as such adverse effect is minimized to the extent practicable and clearly outweighed by public health, safety, or compelling public interest. Therefore, we have determined that the "as-built" wall, replacement of the wood steps and handrails, and demolition of the unpermitted office, bathroom and bar/countertop will not have a substantial adverse effect on the environment.

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.

By enclosed memorandum dated May 14, 2010, the Department of Public Works – Engineering Division submitted the following comment:

"We reviewed the subject application as requested for compliance with Hawai'i County Code Chapter 27, Floodplain Management, and our comments are as follows:

We have determined that the subject property is located within Flood Zone 'X' according to the current Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The proposed project is in compliance with HCC Chapter 27."

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 10-000150** is hereby approved to allow for the "as-built" wall, replacement of the wood steps and handrails, and demolition of the unpermitted office, bathroom and bar/countertop on the subject parcels.

Please note that this SMA Minor Permit does **not** imply tacit approval for other required changes that may be denoted on the six-paged set of plans dated "5/18/2009" and labeled as "Proposed Alterations for: Coconut Grove Marketplace". In particular, it is our understanding that a vent encroaches into the side yard setback. Further, the existing parking lot configuration may not be consistent with the current Zoning Code and a proposed comprehensive parking plan for the Coconut Grove complex is under review.

SMA Minor Permit No. 10-000150 is subject to the applicant's compliance with the conditions of approval as specified below.

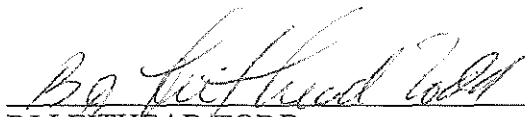
Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 10-000150** subject to the following conditions:

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Prior to the issuance of any permits, the applicant shall obtain approval from the Kailua Village Design Commission for the proposed improvements.
3. 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.
4. All requisite permits and proposed activities must be obtained and completed within one (1) year from the approval date of this permit.
5. The applicant shall erect a construction barrier meeting with the approval of the Planning Department around the project sites. The construction barrier shall be erected prior to the commencement of any construction activities and shall remain in place until the Department of Public Works has granted Final Approval for all Permits issued in connection with the subject project. The construction barrier must be shown and properly noted on the construction plans submitted with any permit required for any construction activity, and construction notes on the construction plans must include a statement that, "the construction barrier must be erected prior to any construction activities, and must remain in place until final inspection by Department of Public Works Building Division."

6. All construction debris must be removed from the SMA and disposed of at an appropriate waste disposal facility.
7. 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).
8. 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:



BJ LEITHEAD TODD
Planning Director

MAY 20 2010

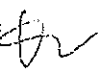
Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: May 14, 2010

Memorandum

TO : B. J. Leithead-Todd, Planning Director
Planning Department

FROM : Galen M. Kuba, Division Chief 
Engineering Division

SUBJECT : Assessment Application (SAA 10-000564)
Applicant: Peter J. Piper
Location: North Kona, Hawaii
TMK: 3 / 7-5-009:025, 027

We reviewed the subject application as requested for compliance with Hawaii County Code Chapter 27, Floodplain Management, and our comments are as follows:

We have determined that the subject property is located within Flood Zone "X" according to the current Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). The proposed project is in compliance with HCC Chapter 27.

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

KE
copy: ENG-HILO/KONA