

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 9, 2011

Mr. Dennis A. Krueger  
Jewell & Krueger  
Kuakini Tower, Suite 208  
75-5722 Kuakini Hwy  
Kailua-Kona, HI 96740

Dear Mr. Krueger:

**SUBJECT: Special Management Area Use Permit Assessment Application  
(SAA 10-000562)  
Special Management Area Minor Permit No. 11-000180  
Land Owner: Michael Galego  
Request: Construct a Lanai on the Second Floor of the Existing Multi-family  
Structure  
Tax Map Key: (3) 7-8-019:003:0075 Portion of Kahului, North Kona,  
Hawai'i**

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This letter is in response to the Special Management Area Assessment Application (SMAA) originally received on April 7, 2010 for the construction of a second floor lanai, above the existing first floor lanai. This is for Unit 3113 of the Sea Village Condominiums. In addition, we received your letter on March 10, 2011, requesting that the proposed lanai be considered a minor structure and be permitted within the Shoreline Setback Area without a variance.

The parcel has a total of 4.4898 acres and is zoned Resort-Hotel (V-1.25) by the County of Hawai'i. 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).

#### **Special Management Area Determination:**

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and Planning Commission (PC) Rule 9-4(e) (1) (E), "development" includes *Construction*,

Mr. Dennis A. Krueger  
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*reconstruction, demolition, or alteration of the size of any structure.* Therefore, the proposed construction of the second floor lanai is considered "development" and requires a Special Management Area Minor Permit.

**Determination of Minor Activity within Shoreline Setback Area:**

The entire lanai has been proposed within the 40-foot shoreline setback area. However, the foot print of the existing building will remain unchanged and will not be enlarged. This minor structure would not affect beach processes or artificially fix the shoreline and would not interfere with public access or public views to and along the shoreline. Therefore, a Shoreline Setback Variance shall not be required.

**Compliance with Environmental Impact Statement Regulations (Chapter 343, HRS):**

According to Hawai'i Revised Statutes (HRS) Chapter 343-5, an environmental assessment shall be required for actions that propose any use within a shoreline area. However, Hawai'i Administrative Rules (HAR), Chapter 200, Environmental Impact Statement Rules provides a list of classes of action that may be exempt from the preparation of an environmental assessment (EA). Among the list of exempt classes of action listed in HAR Chapter 200 is:

*11-200-8(A)6) Construction or placement of minor structures accessory to existing facilities;*


The Planning Department consulted with the Department of Public Works (DPW) regarding the Planning Director's "Declaration of Exemption" from the preparation of an EA for the subject project. The Planning Department determines that the proposed action will probably have minimal or no significant effect on the environment and is not located on a historic site and hereby exempts the applicant from the preparation of an EA for the proposed project. No uses, activities, or development, other than those described in the application, shall be exempt from environmental review under Chapter 343.

Based on the above and pursuant to Planning Commission Rule No. 9-10(E), Special Management Area Minor Permit No. 11-000180 is hereby issued to allow for the proposed construction of the second floor lanai on Unit 3113. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

Mr. Dennis A. Krueger  
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If you have questions, please feel free to contact Bethany Morrison of this department at 961-8138.

Sincerely,

  
for BJ LEITHEAD TODD  
Planning Director

BJM:cs  
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Enclosure: SMM No. 11-000180  
Memorandum from Department of Public Works dated April 25, 2011  
HRS Chapter 343 Declaration of Exemption

cc w/encls: Mr. Michael Galego  
2-1701 East Cliff Drive  
Santa Cruz, CA 95062

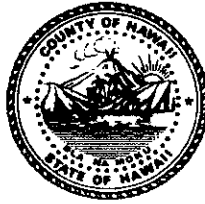
Long Range Planning Division

Planning Department- Kona

Planning Division

cc ltr only: Mr. Jesse K. Souki, Director  
Office of Planning, DBEDT  
State of Hawaii Department of Business, Economic  
Development & Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359

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### **Special Management Area Minor Permit No. 11-000180**

**Project:** Construct a Lanai on the Second Floor of the Existing Multi-family Structure  
**Applicants:** Michael Galego  
**Land Owners:** Michael Galego  
**Location:** Portion of Kahului, North Kona, Hawai'i  
**TMK:** (3) 7-8-019:003:0075      Land Area: 4.4898 acres

#### **Applicant's Request**

**1. Project Description:**

The applicant proposes to construct an 8' x 12'2" lanai on the second floor, above the existing first floor lanai. This is for Unit 3113 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 provide additional protection against damage to the unit from the periodic high surf action. Secondly, in addition to the added protection, the front bedroom would also have a dedicated lanai, which would enhance the unit.

**3. Project Valuation:** \$7,000 to \$9,000.

**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.

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

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.

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|-----------------|
| <b>Findings</b> |
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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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$7,000 to \$9,000 is not in excess of \$125,000.

The enclosed Department of Public Works, Engineering Division memorandum dated April 25, 2011, states the following:

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

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

*Within Zone VE, new construction, improvements to repetitive loss structures or substantial improvements of structures are subject to the requirements of Chapter 27- Flood Plain Management, of the Hawai'i County Code. The proposed lanai addition is not by definition "new construction", a "substantial improvement" or an "improvement to a repetitive loss structure". However, such additions have a potential to increase flood hazards to an existing structure. Therefore we*

*recommend the applicant have the proposed addition designed and constructed to withstand flood hazard loads.*

*We also concur with the Planning Director's Declaration of Exemption from the preparation of an environmental assessment under Chapter 343-5 for the subject request. The basis for the exemption is stated to be 11-200-8(A)(6) of HAR Chapter 200; Construction or placement of minor structures accessory to existing facilities. "*

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 11-000180** is hereby approved to allow the construction of an 8' x 12'2" lanai on the second floor of the Sea Village Condominium complex located on the subject property.

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|-------------------------------|
| <b>Conditions of Approval</b> |
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The Planning Director has approved **SMA Minor Permit No. 11-000180** 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 lanai shall be issued within two (2) years from the date of this letter.
4. A construction barrier, meeting with the approval of the Planning Director, shall be erected along the 40-foot shoreline setback line fronting the subject unit and around the approved construction within the shoreline setback area prior to the commencement of construction activities and shall remain in place until final inspection has been granted for the lanai.
5. 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 (and/or erosion control) 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 (or Planning Department)."
6. Other than the approved construction of the minor structure; no land alteration, grubbing, landscaping, demolition or construction activities, including, but not limited to, the stockpiling of debris, construction materials or equipment, shall occur in the shoreline setback area without securing a prior written determination of minor structure or activity pursuant to Rule 11-8 from the Planning Director or approval of a Shoreline Setback Variance from the Planning Commission.
7. The area makai of the 40-foot shoreline setback line shall be kept clear of any rubbish or debris resulting from the construction activities at all times.

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:

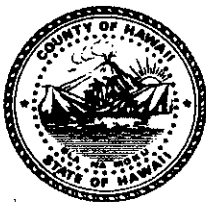
  
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### DECLARATION OF EXEMPTION

FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE  
AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200, HAR

Project Title: Construction of 2<sup>nd</sup> Floor Lanai

Project Number: SMM-11-000180

Project Description: The construction of an open, second-story lanai to the existing unit 3113 in the Sea Village Condominium complex. The additional lanai is proposed to match the foot print of the existing first floor lanai directly below within the shoreline setback area.

Consulted Parties: County of Hawai'i – Department of Public Works

Exemption Class: Class 6; Construction or placement of minor structures accessory to existing facilities.

Date of Exemption: May 3, 2011

I have considered the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200, HAR. I declare that this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

  
BJ LEITHEAD TODD  
Planning Director

MAY 09 2011

Date