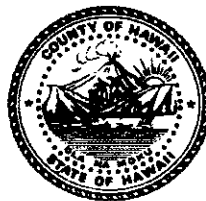


William P. Kenoi  
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## County of Hawai'i PLANNING DEPARTMENT

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### **Special Management Area Minor Permit No. 12-000232**

**Project:** Consolidation and Resubdivision of Ten (10) Lots with Private Roadway into Ten (10) Lots with Private Roadway  
**Applicant:** Ken Fujiyama and Ken Direction Corporation  
**Land Owner:** Ken Fujiyama and Ken Direction Corporation  
**Location:** South Hilo, Hawai'i  
**TMK:** 2-7-3:1, 3, 4 and 88-95

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

**1. Project Description:**

The owners are proposing to consolidate ten lots with a private roadway and resubdivide into ten lots with a private roadway. However, instead of only two lots with ocean frontage, there will be three.

**2. Purpose of Project:**

The original subdivision was approved as SUB 6990 on June 3, 1998. The purpose of this project is to reconfigure the ten lots with private roadway to be more uniform in layout and conformity and will result in another lot having frontage along the coastline.

**3. Project Valuation:** None, as there will be no improvements.

**4. Determination:**

Chapter 205A-22, HRS and Planning Commission Rule 9-4(e)(1)(C) relating to the Special Management Area, states that "development" includes *"Change in the density or intensity of use of land, including but not limited to the division or subdivision of land"*.

Further, according to Planning Commission Rule No. 9-4(e)(4), *"Whenever the Director finds that any excluded use, activity, or operation may have a cumulative impact, or a significant adverse environmental or ecological effect on the Special Management Area, that use, activity, or operation shall be defined as 'development' for the purpose of this rule"*.

According to the Hawai'i County Code, Chapter 34, Public Access, a public access plan will be required prior to final consolidation and resubdivision of the subject parcels.

### State and County Plans

1. **State Land Use District:** See table below with existing designations.
2. **General Plan:** See table below with existing designations.
3. **County Zoning:** See table below with existing designations.

No.	TMK 2-7-3:	Land Owner	Acreage	State Land Use	Zoning	General Plan	Ocean Frontage
1	1	KF	11.383	A	A-20a	LDU/IND	
2	3	KF	3.112	A/C	A-20a	LDU/Open	
3	4	KDC	5.307	A	A-20a	LDU/Open/IND	
4	88	KDC	1.389	A	A-20a	LDU	
5	89	KDC	4.223	A/C	A-20a	Open/ LDU	Yes
6	90	KDC	5.312	A/C	A-20a	LDU/Open	
7	91	KDC	4.783	A/C	A-20a	Open/LDU	Yes
8	92	KDC	2.361	A	A-20a	LDU	
9	93	KDC	4.67	A	A-20a	LDU	
10	94	KDC	4.486	A	A-20a	LDU	
	95 road	KF	2.185	-	-	-	

KF: Ken Fujiyama  
A: Agricultural  
LDU: Low Density Urban

KDC: Ken Direction Corp.  
C: Conservation  
IND: Industrial

4. **Hawai'i County Code, Chapter 34, Public Access:** Section 34-3(a)(15) states that *"Subdivision' for the purpose of this chapter, means any improved or unimproved land or lands divided or proposed to be divided for the purpose of disposition into six or more lots or parcels".* Section 34-4(a) further states that *"A subdivider or developer of a multiple-family development shall, as a condition precedent to final approval of a subdivision or issuance of a building permit for a multiple-family development,. dedicate land by right-of-way in fee or easement for public access from a public highway or public street to the following: (1) Public shoreline areas and the land below the shoreline;"*
5. **Special Management Area (SMA):** Although all of the parcels are in the SMA, only two lots currently have frontage along the ocean.
6. **Flood Zone:** X

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

One of the objectives of Chapter 205A-2 of the Hawaii Revised Statutes is to provide for coastal recreational opportunities accessible to the public. We understand that the CRM

platform at the northeasterly end of the subdivision has been traditionally utilized by local fishermen and other recreational users. Therefore, to ensure the coastal access for fishing and other recreational purposes, the applicant will be required to develop and implement a public access plan that would also allow for a mauka relocation of the public access in the event of erosion or other conditions that make the access unsafe.

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.

<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. Although there will be three lots instead of two with coastal frontage, the cumulative impacts on the SMA and coastal ecosystems are not expected to be substantial as no improvements are proposed.

The proposed development is consistent with the Hawai'i County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

Although there is no cost for the consolidation and resubdivision of the ten (10) lots and private roadway, the requirement to provide a public access plan may require some infrastructural improvements but not anticipated to cost \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated June 13, 2012, states the following:

*'We have reviewed the subject application for compliance with Chapter 27, Floodplain Management, forwarded by your memo dated June 4, 2012 and have no objections to the request.*

*The subject parcels are in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is identified as an area of "minimal tsunami inundation". The Federal Government and the County of Hawai'i do not have any*

*regulations for developments within areas of minimal tsunami inundation and Zone X".*

Pursuant to Planning Commission Rule Section 9-10(e), **Special Management Area Minor Permit No. 12-000232** is hereby approved to allow for the consolidation and resubdivision of ten (10) lots with private roadway into ten (10) lots with private roadway, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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The Planning Director has approved **SMA Minor Permit No. 12-000232**, 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 applicant shall develop a public access plan that provides, at a minimum, a continuous traversable public access between Hawai'i Belt Road and the coastline down to the CRM platform (identified and labeled on the final plat map of Subdivision 6990) at the northeasterly side of the subdivision. The public access plan shall be submitted to the Planning Director for approval not more than one year after the granting of this permit. Approval of the public access plan shall be required prior to granting of final approval of the proposed subdivision.
4. The public access must be delineated on the subdivision's final plat map and granted to the County of Hawai'i in perpetuity and recorded with the Bureau of Conveyances.
5. Final consolidation and resubdivision approval for the ten (10) lots with private roadway shall be secured within two (2) years from the approval date of this permit.
6. All site plans submitted to the Planning Department for any future land use permits or development on lots with coastal frontage shall include the location of the public shoreline access.
7. If the consolidation and resubdivision requires any land alterations and/or improvements that is not covered by this permit, a Special Management Area Use Permit Assessment Application will be required for those activities.
8. Future development of all lots shall be subject to review against the SMA guidelines as such plans are implemented.
9. 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).

10. 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.

If you have questions, please contact Esther Imamura of this department at 961-8138.

APPROVED:

  
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BJ LEITHEAD TODD  
Planning Director

OCT 19 2012  
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Date