

William P. Kenoi
Mayor



Duane Kanuha
Director

Bobby Command
Deputy Director

West Hawai'i Office
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County of Hawai'i
PLANNING DEPARTMENT

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

November 14, 2014

Mr. Ben Ishii, Division Chief
County of Hawai'i, Department of Public Works
101 Pauahi Street, Suite 7
Hilo, HI 96720

Dear Mr. Ishii:

**SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 14-001178)
Special Management Area Minor Use Permit (SMM-14-000320)**
Applicant: County of Hawai'i, Department of Public Works
Request: Construction of Shoulder Widening Improvements
**Tax Map Key(s): (3) 7-5-008:003, County Right-of-Way; Hienaloli 4th and 5th,
North Kona, Hawai'i**

This is in response to your Special Management Area Use Permit Assessment Application received on September 11, 2014, for the construction of shoulder widening improvements along the landward (mauka) shoulder of Ali'i Drive. The project will expand the right-of-way and paved shoulder to a standard width of 5 feet and build a new 2.5-foot high, mortared lava wall at the mauka edge of the shoulder. In front of the Kona Alii property, the existing planter walls and sloped planted area will be replaced by two parallel mortared lava rock walls and a flat planted area. A Finding of No Significant Impact was published for the project in the May 8, 2014 edition of the Environmental Notice.

The subject parcel consists of 2.3524 acres and is zoned V.75 (Resort-Hotel). According to the County of Hawai'i General Plan (as amended), the subject property is designated as Resort Node. The parcel is designated Urban by the State Land Use Commission. In addition, although the proposed project site is not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS), it is within the Special Management Area (SMA) and subject to review against SMA rules and regulations.

Special Management Area Determination:


According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and PC Rule No. 9-4(e) (1) (E), "Construction, reconstruction, demolition, or alteration of the size of any structure" is not exempt from the definition of "development." Therefore, the construction of shoulder widening improvements will require a review against the Special Management Area rules and regulations. For this reason and pursuant to Planning Commission Rule Section 9-10(e), Special Management

Mr. Ben Ishii, Division Chief
County of Hawai'i, Department of Public Works
November 14, 2014
Page 2

Area Minor Permit No.14-000320 is hereby issued for the SMA approval of the construction of shoulder widening improvements on the subject property. It is the applicant's responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please feel free to contact Bethany Morrison of this department at (808) 961-8138.

Sincerely,


DUANE KANUHA
Planning Director

BJM:cs

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Enclosures - SMM No. 14-000320
DPW Memorandum dated October 24, 2014

cc w/encls: Long Range Planning
Planning Division
Kona Planning Office

cc ltr. only: Ichthus Land Company
75-5778 Kuakini Highway
Kailua-Kona, HI 96740

Mr. Leo Asuncion, Acting 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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Phone (808) 961-8288
Fax (808) 961-8742

Special Management Area Minor Permit No. 14-000320

Project:	Construction of Shoulder Widening Improvements
Applicant:	County of Hawai'i, Department of Public Works
Land Owner:	Ichthus Land Company
Location:	Hienaloli 4th and 5th, North Kona, Hawai'i
TMK(s):	(3) 7-5-008:003, County Right-of-Way
Land Area:	2.3524 acres

Applicant's Request

1. Project Description:

The applicant proposes the construction of shoulder widening improvements along the landward (mauka) shoulder of Ali'i Drive. The project would acquire a strip of right-of-way varying from 0 to 8 feet in width. The project will expand the right-of-way and paved shoulder to a standard width of 5 feet and build a new 2.5-foot high, mortared lava wall at the mauka edge of the shoulder. In front of the Kona Alii property, the existing planter walls and sloped planted area will be replaced by two parallel mortared lava rock walls and a flat planted area.

2. Purpose of Project:

The purpose of the project is to improve pedestrian safety along the busy roadway. Pedestrians now walk in an area with inadequate separation from the motor vehicle travel lane.

3. Project Valuation: \$250,000.

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and PC Rule No. 9-4(e) (1) (E), "Construction, reconstruction, demolition, or alteration of the size of any structure" is not exempt from the definition of "development." Therefore, the construction of shoulder widening improvements will require a review against the Special Management Area rules and regulations.

State and County Plans

- 1. State Land Use District:** The parcel is designated Urban by the State Land Use Commission.

2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Resort Node.
3. **County Zoning:** The subject parcel is zoned V.75 (Resort-Hotel) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcel is located entirely within the Special Management Area. However, the project area is not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS) Chapter 205A-41.
5. **Flood Zone:** AE.

<p style="text-align: center;">Compliance with Objectives and Policies of Chapter 205A, Hawai'i Revised Statutes (HRS), Regarding the Special Management Area</p>
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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 Hawai'i 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$250,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated October 24, 2014, states the following:

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

The proposed roadway shoulder improvements, designed by the applicant, along Ali'i Drive and concurrent with the subject parcel, are located within a FEMA Zone AE Special Flood Hazard Area according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

We performed the required evaluation of the proposed project and have determined it does conform to Chapter 27 of Hawai'i County Code."

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 14-000320 is hereby approved for the shoulder widening improvements on the subject property.

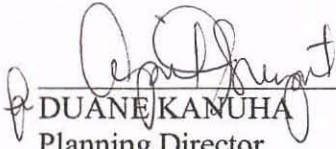
Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 14-000320** 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. All construction activities shall be completed within two (2) years from the date of this permit.
4. Appropriate native plants shall be incorporated into the landscaping plans for the planted areas.
5. Any further grading, grubbing, filling or other construction activity, including but not limited to, the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
6. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings 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.
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:


DUANE KANUHA
Planning Director

NOV 14 2014


Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: October 24, 2014

Memorandum

TO : Duane Kanuha, Planning Director
Planning Department

FROM : Ben Ishii, Division Chief 
Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 14-001178)
Request: Alii Drive Shoulder Improvements
Applicant: County of Hawaii
Land Owner: Ichthus Land Company and County of Hawaii
Location: Hienaloli, 4th and 5th, North Kona, Hawaii
TMK: 3 / 7-5-008:003

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

The proposed roadway shoulder improvements, designed by the applicant, along Alii Drive and concurrent with the subject parcel, are located within a FEMA Zone AE Special Flood Hazard Area according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

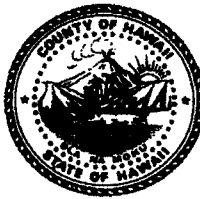
We performed the required evaluation of the proposed project and have determined it does conform to Chapter 27 of Hawaii County Code.

Should there be any questions concerning this matter, please contact Kiran Emler of our Kona Engineering Division office at 323-4851.

KE

copy: ENG-HILO/KONA

William P. Kenoi
Mayor



Duane Kanuha
Director

Joaquin Gamiao-Kunkel
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
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May 31, 2016

Mr. Ben Ishii, Division Chief
County of Hawai'i, Department of Public Works
101 Pauahi Street, Suite 7
Hilo, HI 96720

Dear Mr. Ishii:

SUBJECT: Special Management Area Minor Use Permit (SMM-14-000320)
Request: Amend SMM-14-000320 to include TMK 7-5-008:001 and a Two-
Year Time Extension
TMK(s): (3) 7-5-008:003; 7-5-008:001, County Right-of-Way; Hienaloli 4th and
5th, North Kona, Hawai'i

This is in response to your March 22, 2016 letter regarding a proposed amendment of SMM-14-000320 to include shoulder widening improvements on an additional parcel, TMK 7-5-008:001. While the work was designed to include this parcel, it was not included in the SMM-14-000320, because the easement documents were still being prepared and executed. We understand that the Grant of Easement document has since been executed. Due to the extended time to get the documents prepared, we understand that you are also requesting a time extension to complete the construction activities.

Special Management Area Determination:

On November 14, 2014, SMM-14-000320 was approved by our department to allow construction of shoulder widening improvements within and along the landward (mauka) shoulder of Ali'i Drive. According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and PC Rule No. 9-4(e) (1) (E), "Construction, reconstruction, demolition, or alteration of the size of any structure" is not exempt from the definition of "development." Therefore, the construction of shoulder widening improvements requires a review against the Special Management Area rules and regulations.

The total development cost of \$250,000 does not exceed the \$500,000 valuation threshold for SMA Minor Permits. In addition, the proposed shoulder widening improvements will not have any significant adverse environmental or ecological effect. For these reasons and pursuant to

Mr. Ben Ishii, Division Chief
May 31, 2016
Page 2

Planning Commission Rule Section 9-10(E), SMM-14-000320 is hereby amended to include work on the additional parcel.

We understand that there have been additional delays related to the preparation and execution of the Grant of Easement documents required. We find that the conditions under which our initial permit was made have not significantly changed. Further, we find that the request meets the criteria for the granting of a time extension. Therefore, we will allow for an additional time extension pertaining to Condition 3 for the time allowed to complete the construction activities. All construction activities shall be completed by **November 14, 2018**. As a reminder, the applicant, its successors or assigns shall be responsible for complying with all other stated conditions of SMM-14-000320.

If you have any questions, please feel free to contact Bethany Morrison of this department at (808) 961-8138.

Sincerely,


DUANE KANUHA
Planning Director

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Enclosures: SMM No.: 14-000320
DPW Memorandum dated October 24, 2014

cc w/Encls.: Planning Division
Kona Planning Office


cc ltr. only: Mr. Leo Asuncion, Director
Office of Planning, DBEDT
State of Hawai'i Department of Business, Economic
Development & Tourism
P.O. Box 2359
Honolulu, HI 96804-2359

**DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII**

DATE: October 24, 2014

Memorandum

TO : Duane Kanuha, Planning Director
Planning Department

FROM : Ben Ishii, Division Chief 
Engineering Division

SUBJECT : Special Management Area Use Permit
Assessment Application (SAA 14-001178)
Request: Alii Drive Shoulder Improvements
Applicant: County of Hawaii
Land Owner: Ichthus Land Company and County of Hawaii
Location: Hienaloli, 4th and 5th, North Kona, Hawaii
TMK: 3 / 7-5-008:003

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

The proposed roadway shoulder improvements, designed by the applicant, along Alii Drive and concurrent with the subject parcel, are located within a FEMA Zone AE Special Flood Hazard Area according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

We performed the required evaluation of the proposed project and have determined it does conform to Chapter 27 of Hawaii County Code.

Should there be any questions concerning this matter, please contact Kiran Emler of our Kona Engineering Division office at 323-4851.

KE

copy: ENG-HILO/KONA



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Special Management Area Minor Permit No. 14-000320

Project:	Construction of Shoulder Widening Improvements
Applicant:	County of Hawai'i, Department of Public Works
Land Owner:	Ichthus Land Company
Location:	Hienaloli 4th and 5th, North Kona, Hawai'i
TMK(s):	(3) 7-5-008:003, County Right-of-Way
Land Area:	2.3524 acres

Applicant's Request

1. Project Description:

The applicant proposes the construction of shoulder widening improvements along the landward (mauka) shoulder of Ali'i Drive. The project would acquire a strip of right-of-way varying from 0 to 8 feet in width. The project will expand the right-of-way and paved shoulder to a standard width of 5 feet and build a new 2.5-foot high, mortared lava wall at the mauka edge of the shoulder. In front of the Kona Alii property, the existing planter walls and sloped planted area will be replaced by two parallel mortared lava rock walls and a flat planted area.

2. Purpose of Project:

The purpose of the project is to improve pedestrian safety along the busy roadway. Pedestrians now walk in an area with inadequate separation from the motor vehicle travel lane.

3. Project Valuation: \$250,000.

4. Determination:

According to Hawai'i Revised Statutes (HRS) Chapter 205A-22 and PC Rule No. 9-4(e) (1) (E), "Construction, reconstruction, demolition, or alteration of the size of any structure" is not exempt from the definition of "development." Therefore, the construction of shoulder widening improvements will require a review against the Special Management Area rules and regulations.

State and County Plans

- 1. State Land Use District:** The parcel is designated Urban by the State Land Use Commission.

2. **General Plan:** The Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designation is Resort Node.
3. **County Zoning:** The subject parcel is zoned V.75 (Resort-Hotel) by the County of Hawai'i.
4. **Special Management Area (SMA):** The subject parcel is located entirely within the Special Management Area. However, the project area is not located in a "shoreline area" as defined by Hawai'i Revised Statutes (HRS) Chapter 205A-41.
5. **Flood Zone:** AE.

Compliance with Objectives and Policies of Chapter 205A, Hawai'i 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 Hawai'i 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 objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$250,000 is not in excess of \$500,000.

The enclosed Department of Public Works, Engineering Division memorandum dated October 24, 2014, states the following:

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

The proposed roadway shoulder improvements, designed by the applicant, along Ali'i Drive and concurrent with the subject parcel, are located within a FEMA Zone AE Special Flood Hazard Area according to the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA).

We performed the required evaluation of the proposed project and have determined it does conform to Chapter 27 of Hawai'i County Code."

Pursuant to Planning Commission Rule 9-10(e), Special Management Area Minor Permit No. 14-000320 is hereby approved for the shoulder widening improvements on the subject property.


Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 14-000320 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. All construction activities shall be completed within two (2) years from the date of this permit.
4. Appropriate native plants shall be incorporated into the landscaping plans for the planted areas.
5. Any further grading, grubbing, filling or other construction activity, including but not limited to, the construction of structures of any type shall require further review and approval as provided under Chapter 205A, HRS, and Rule 9, Planning Commission Rules of Practice and Procedure.
6. Discovery of any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings 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.
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:


DUANE KANUHA
Planning Director

NOV 14 2014
Date