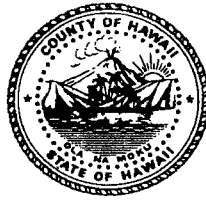


Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
74-5044 Ane Keohokalole Hwy
Kailua-Kona, Hawai'i 96740
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County of Hawai'i
PLANNING DEPARTMENT

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

April 25, 2018

Mr. John L. Hetherington
73-4520 Aniani Street
Kailua-Kona, HI 96740

Dear Mr. Hetherington:

SUBJECT: Special Management Area Use Permit Assessment Application
(SAA 18-001580)
Special Management Area Minor Use Permit (SMM 18-000387)
Applicant: JKV Kona LLC
Land Owner: Lanihau Properties LLC
Request: Expand and Convert the Existing Structure into a
Walk-up/Bicycle Ride-up Food Establishment
Tax Map Key(s): (3) 7-5-005:067 and 005, North Kona, Hawai'i

We have reviewed the subject Special Management Area Use Permit Assessment Application (SAA 18-001580), submitted on February 8, 2018. The applicant proposes to convert the previously used County sewage pump station into a walk-up/bicycle ride-up food establishment. Reroofing and interior improvements are proposed. Additional improvements include a 298-square foot commercial kitchen, a lānai with shade trellis for outdoor seating, garden areas, and bike racks. Further, by a Shared Parking Agreement, an ADA parking space and access aisle will be located within an existing paved parking area on the adjacent Parcel 005.

The subject 2,248 square foot Parcel 067 and the 1.335-acre Parcel 005 are both zoned Village Commercial (CV-10) by the County and designated Urban by the State Land Use Commission. Both are also designated Resort Node by the Hawai'i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map. The properties are located entirely within the Special Management Area (SMA); however, they are not located in a "shoreline area" as defined by Section 205A-41, Hawai'i Revised Statutes (HRS).

Special Management Area Exemption Determination for Reroofing, Interior Improvements and Landscaping:

According to Chapter 205A-22, HRS, and Planning Commission (PC) Rule No. 9-4(e)(2)(F) relating to Special Management Area, "development" does not include "*Repair, maintenance, or*

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Mr. John L. Hetherington

April 25, 2018

Page 2

interior alterations to existing structures or relating to existing uses.” Therefore, we have determined that proposed reroofing, interior improvements, bike racks and garden areas, as presented, are exempt from the definition of development. Also, the proposed activities will not have a substantial adverse effect on the environment. However, while further review of these activities against the Special Management Area rules and regulations will not be required, all other applicable Zoning and Building Code requirements must be satisfied.

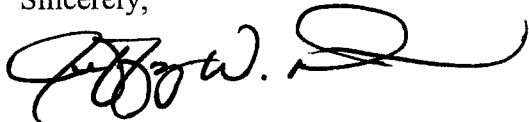
Special Management Area Determination (SMA Minor Permit) for the Addition of a Commercial Kitchen and a Lānai with Shade Trellis for Outdoor Seating:

According to Hawai‘i Revised Statutes (HRS) Chapter 205A-22 and PC Rule No. 9-4(e)(1)(C), (B) and (E), “development” includes “*Change in the density or intensity of use of land, including but not limited to the division or subdivision of land*”, “*Grading, removing, dredging, mining or extraction of any materials,*” and “*Construction, reconstruction, demolition, or alteration of the size of any structure,*” respectively. Therefore, we have determined that the addition of a commercial kitchen and a lānai with shade trellis for outdoor seating is considered “development” and requires a review against the SMA rules and regulations and requires an SMA Minor Permit. Further, we find that the proposed additions will not have a cumulative impact or a significant adverse environmental or ecological effect on the SMA.

Based on the above and pursuant to Planning Commission Rule Section 9-10(e), the enclosed Special Management Area Minor Permit No. 18-000387 is hereby issued for the addition of a commercial kitchen and a lānai with shade trellis for outdoor seating. Please note that it is the applicant’s responsibility to read and comply with the conditions listed in the enclosed permit.

If you have questions, please contact Esther Imamura of this office at (808) 961-8139.

Sincerely,



RM MICHAEL YEE
Planning Director

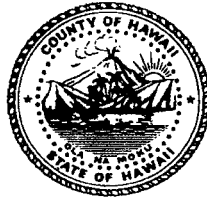
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Enclosures: SMM 18-000387
Receipt No. 660441 for \$50.00 Filing Fee

Cc w/Encl.: Planning Department, Kona
Claudia Lato, Senior Account Clerk

Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

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Special Management Area Minor Permit No. 18-000387

Project: Addition of a Commercial Kitchen and a Lānai with Shade Trellis for Outdoor Seating
Applicant: JKV Kona LLC
Owner: Lanihau Properties LLC
Location: North Kona, Hawai'i
TMK(s): (3) 7-5-005:067 and 005 **Land Area:** 2,248 square feet and 1.335 acres

Applicant's Request

1. Project Description:

On Parcel 067, the applicant proposes to convert the previously used County sewage pump station into a walk-up/bicycle ride-up food establishment with the addition of a 298 square foot commercial kitchen and a lānai with shade trellis for outdoor seating.

2. Purpose of Project:

The proposed project will improve the existing site by providing a pedestrian walk-up food establishment with an outdoor seating area.

3. Project Valuation: \$250,000

4. Determination:

According to Chapter 205A-22, Hawai'i Revised Statutes (HRS), and Planning Commission (PC) Rule No. 9-4(e)(1)(C), (B) and (E) relating to Special Management Area (SMA), "*Change in the density or intensity of use of land, including but not limited to the division or subdivision of land*", "*Grading, removing, dredging, mining, or excavation of any materials*," and "*Construction, reconstruction, demolition or alteration of the size of any structure*," are respectively, all defined as "development." Therefore, the proposed addition of a commercial kitchen and a lānai with shade trellis for outdoor seating is considered "development" and requires a review against the Special Management Area rules and regulations and requires an SMA Minor Permit.

State and County Plans

- 1. State Land Use District:** The parcels are designated Urban by the State Land Use Commission.

2. **General Plan:** The parcels are designated Resort Node by the Hawai‘i County General Plan Land Use Pattern Allocation Guide (LUPAG) Map.
3. **County Zoning:** The parcels are zoned Village Commercial (CV-10).
4. **Special Management Area:** The subject parcels are located entirely within the Special Management Area (SMA). However, they are not located in a “shoreline area” as defined by Hawai‘i Revised Statutes (HRS) Chapter 205A-41.
5. **Flood Zone:** Both parcels are designated “X”.

<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

1. 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.
2. The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.
3. The estimated project cost of \$250,000 for new construction is not in excess of \$500,000.
4. The enclosed Department of Public Works, Engineering Division memorandum dated April 10, 2018, states the following:

“We have reviewed the subject application for compliance with Chapter 27 of the Hawai‘i County Code only and our comment is as follows:

 1. *The subject project is within the Federal Emergency Management Agency (FEMA) Floodzone “X” and is not subject to Chapter 27 – Floodplain Management – of the Hawai‘i County Code.”*

Pursuant to Planning Commission Rule Section 9-10(e), the Planning Director hereby approves the proposed addition of a commercial kitchen and a lānai with shade trellis for outdoor seating, subject to the applicant's compliance with the conditions of approval as specified below.

Conditions of Approval

This SMA Minor Permit is 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 meet current minimum yards (setbacks) required by Chapter 25, Zoning, of the Hawai'i County Code.
4. The applicant(s), successor(s) or assign(s) shall submit a Planning Department approved Shared Parking Agreement that was recorded with the Bureau of Conveyance prior to securing Final Plan Approval for the proposed project from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code.
5. Final Plan Approval shall be secured within one (1) year from the date of this permit and all construction activities shall be completed within (2) years from the date of Final Plan Approval.
6. The disposal of waste material is subject to the requirements of Chapter 20 - Refuse, of the Hawai'i County Code and may require a Landfill Disposal Permit from the Department of Environmental Management, Solid Waste Division.
7. Any further uses, activities or operations proposed for the subject property shall require further review and approval as provided under Chapter 205A of the Hawai'i Revised Statutes, and Rule 9 of Planning Commission Rules of Practice and Procedure. Should the cost of any new activities or operations not included in the subject proposal but related to the subject undertaking move the total valuation of the project over \$500,000, this permit will be deemed void and a Special Management Area "Major" Use Permit will be required for the project.
8. In the unlikely event that subsurface historic resources, including human skeletal remains, structural remains, cultural deposits, sand deposits, or sink holes are identified during the demolition and/or construction work, cease work in the immediate vicinity of the find, protect the find from additional disturbance, and contact the State Historic Preservation Division (DLNR-SHPD) at (808) 933-7651. The applicant shall also notify the Planning Department immediately after contacting the DLNR-SHPD.

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 determination; 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 any questions, please feel free to contact Esther Imamura at (808) 961-8139.

APPROVED:


MICHAEL YEE
Planning Director

4/25/18
Date

RECEIPT		DATE <u>2-8-2018</u>	No. <u>660441</u>
RECEIVED FROM <u>Hetherington Architecture, LLC</u>		\$ <u>50.00</u>	
<u>73-4820 Armani st. Fairburn-Gona, HI 96740</u>		DOLLARS	
<input type="radio"/> FOR RENT <input checked="" type="radio"/> FOR <u>SMA F/F TMK # 7-S-COS:067:0000</u>			
ACCOUNT		<input type="radio"/> CASH <input checked="" type="radio"/> CHECK <u>*530</u> <input type="radio"/> MONEY ORDER <input type="radio"/> CREDIT CARD	FROM _____ TO _____ BY <u></u>
PAYMENT	<u>50.00</u>		
BAL. DUE			