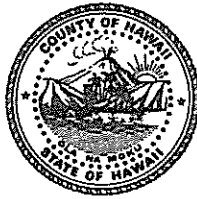


Stephen K. Yamashiro
Mayor



County of Hawaii

PLANNING COMMISSION

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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CERTIFIED MAIL
7099 3220 0000 4869 6162
MAY 23 2000

Mr. James Leonard, AICP
Managing Director
PBR Hawaii – Hilo Office
101 Aupuni Street, Suite 310
Hilo, HI 96720-4276

Dear Mr. Leonard:

Special Management Area Use Permit Application (SMA 00-004)
Applicant: 1250 Oceanside Partners (dba Oceanside 1250)
Request: Development of a Portion of Mamalahoa Highway Bypass Road
Tax Map Key: 7-8-010:Portion of 30

The Planning Commission at its duly held public hearing on May 5, 2000, voted to approve the above-referenced application. Special Management Area (SMA) Use Permit No. 402 is hereby issued for the development of a portion of the Mamalahoa Highway Bypass Road, approximately 2,500 linear feet. The project area is located in the vicinity at the end of Ali'i Highway at Keauhou, Hawaii.

Approval of this request is based on the following:

The purpose of Chapter 205A, Hawaii Revised Statutes (HRS), and Special Management Area Rules and Regulations of the County of Hawaii, is to preserve, protect, and where possible, to restore the natural resources of the coastal zone areas. Therefore, special controls on development within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options.

The development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable

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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 elimination of planning options.

The Mamalahoa Highway Bypass Road is a five mile roadway segment and is required through the rezoning process under Ordinance Nos. 96-7 and 96-8. The roadway would traverse the mauka portion of the Hokuli'a site near the 800-foot elevation. The proposed Mamalahoa Highway Bypass alignment would connect with Ali'i Highway at the southern boundary of the Keauhou Resort area and terminate at the Napo'opo'o Road intersection by tying back into the existing Mamalahoa Highway. The proposed bypass road corridor of approximately 80 to 120 feet wide will be initially a two-lane roadway with sufficient right-of-way to accommodate four-lanes, and is intended to divert through traffic from Mamalahoa Highway and relieve the current congestion at peak traffic hours within the Kealakekua area. The traffic impact study conducted by the applicant anticipated that the proposed development (Phase I) will generate 297 additional trips during the A.M. peak hour and 412 additional trips during the P.M. peak hour. The study concludes that the bypass road will reduce traffic volumes along the Mamalahoa Highway, thereby improving operating conditions at the existing Haleki'i Street-Mamalahoa Highway intersection. The study further concludes that if forecasted conditions are realized, improving the bypass road to a four-lane road is recommended by the year 2005. All approaches to the Haleki'i Street-Mamalahoa Bypass Highway intersection are recommended to have separate through and turn lanes.

The Special Management Area Use Permit pertains to an approximately 2,500 foot portion of the total five-mile long roadway, near the terminus of Ali'i Highway in Keauhou. The affected portion is located approximately 1,100 feet from the shoreline and at an elevation of about 240 feet above mean sea level. As a condition of approval for the development of the entire Hokuli'a project site, the applicant is responsible for securing the right-of-way and ensuring construction of the bypass road between Keauhou and Haleki'i Street be completed and available for public use prior to the occupancy of any dwelling unit within the entire project area.

On April 20, 1998, Oceanside 1250 and the County of Hawaii entered into a Development Agreement to identify obligations of Oceanside, to provide assurance that these obligations are met in a timely manner, to provide assurances to Oceanside that it may complete full development of the Hokuli'a project (previously Hokukano project) and the Mamalahoa Highway Bypass, to allow Oceanside and the County to enter a

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reimbursement agreement for costs associated with the Bypass and to reduce or eliminate uncertainty in the responsibilities of Oceanside and the County relating to the development of the project and the Bypass. The scope and purpose of the agreement is consistent with Ordinance No. 93-97, the application, preparation and administration of development agreements as provided by Ordinance No. 93-97. The roadway alignment has been established by the Department of Public Works. Oceanside has continued discussions with each of the landowners along the Bypass route regarding acquisition of right-of-way sufficient to build the road. Oceanside and the County of Hawaii have finalized options to purchase these portions of the right-of-way from many of the landowners.

According to the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, the portion of the Mamalahoa Highway Bypass Road alignment is determined to pass through five drainageways. The Kawanui-Lehuula Drainageway, which runs makai through the town of Honalo and is classified as Zone A, 100-year flood with no base flood elevation determined. The Kainaliu Drainageway, also classified as Zone A, is south of the Kawanui-Lehuula Drainageway, and runs parallel to and just north of the Hokuli'a northern property boundary. The third through fifth drainageways are referred to as Watercourse No. 1 (Zone AE and X), and No. 2 (Zone A) and No. 3 (Zone AE and X) and are all located in the South Kona District. In addition to the five major drainageways, runoff from several small drainage basins must also be accommodated in the highway design. Depending on the quantity of the peak discharge, runoff from these smaller basins will either be collected in roadway swales and discharged to drywells or conveyed under the highway via culverts. Culverts will be located and sized to accommodate projected flows without significant impacts to the highway or nearby properties. There are no perennial streams crossing within the Bypass corridors as flows occur only intermittently during significant rainfall events.

The Flood Insurance Rate Map indicates that the remainder of the Mamalahoa Highway Bypass alignment that is not within the Special Management Area is located within an area located outside of the 500-year flood plain (Zone X). There are areas subject to the 100-year frequency flood (Zones A and AE) which are located within the property. An area defined as Zone A (base flood elevation not determined) runs along the northern boundary of the project site. Another area designated Zone A traverses the project site near the southern project site boundary. Areas designated as Flood Zone AE (base flood elevations determined) traverse midway into the southern half of the project site with another area running along the southern property line. All of these flood areas run through the project site in a mauka-makai direction.

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As required by the Environmental Protection Agency (EPA) through the Clean Water Act and the National Pollution Discharge Elimination System (NPDES) Program, storm water pollution prevention measures will be required for the Bypass project both during and after construction. The storm water pollution prevention plan (SWPPP) will include the following types of best management practice:

1. Practices that prevent erosion, such as stabilization of cut and fill slopes by vegetation and non-vegetation means.
2. Practices that trap pollutants before they can be discharged, such as the use of silt fences, check dams, mulching, culvert outlet protection, and sedimentation basins.
3. Practices that prevent pollutants from mixing with storm water, such as providing protected storage for chemicals, solvents and other toxic materials.
4. Other measures that can be taken to minimize the potential for soil erosion and the amount of sediment that leaves the construction limits include the soil erosion and Sediment Control Standard Management Practices under the guidelines as set forth in the Erosion and Sediment Control Guide for Hawaii (U.S. Soil Conservation Service 1981).

This will eliminate existing drainage deficiencies and insure that any flow concentration that could result from construction of the proposed highway would not adversely affect downstream properties. Changes in the official floodplain made under the National Flood Insurance Program will be required in conformance with Hawaii County Chapter 27. All Federal, State and County regulations will be complied with during the project development to minimize any coastal flooding from inland projects.

The proposed development is not anticipated to have any substantial adverse environmental or ecological effects to the physical environment within the immediate area. Surveys conducted for biological resources, historic and cultural resources, visual impacts, public access and recreation aspects, socio-economic impacts support this conclusion. The goals and objectives of the SMA with respect to coastal, recreational, scenic, historic and economic resources can be met with an approval with conditions.

The proposed development is consistent with the objectives and policies as provided by Chapter 205A, HRS, and Special Management Area guidelines contained in Rule No. 9 of the Planning Commission Rules of Practice and Procedure. Any potential runoff or discharge which could reach ocean waters can be handled by on-site improvements. Any impacts from soil erosion and runoff during site preparation and construction phases can be adequately mitigated through compliance with existing regulations. With these precautionary measures in place, the proposed development is not anticipated to have any substantial adverse effects on the coastal resources or environment.

The proposed development is consistent with the County General Plan and Zoning Code. This project is consistent with the General Plan's Environmental Quality, Natural Resources and Shoreline, Flood Control and Drainage, and Transportation elements goals, policies and courses of action.

Transportation

Goals

- o Provide a transportation system whereby people and goods can move efficiently, safely, comfortably and economically.
- o Make available a variety of modes of transportation which best meets the needs of the County.

Policies

- o A framework of transportation facilities which will promote and influence desired land use shall be established by concerned agencies.
- o The agencies concerned with transportation systems shall provide for present traffic and future demands, including mass transit programs for high growth areas.
- o The improvement of transportation service shall be encouraged.
- o There shall be coordinated planning of Federal, State and County street systems to meet program goals of the other elements such as historic, recreational, environmental quality, and land use.

- o Transportation and drainage systems shall be integrated where feasible.

North Kona Transportation

- o Construct a scenic drive from Keauhou above the Kealakekua cliffs to Napo'opo'o.

Environmental Quality

- o The County of Hawaii shall take positive action to further maintain the quality of the environment for residents both in the present and in the future.

Natural Resources and Shoreline

- o The County shall encourage public and private agencies to manage the natural resources in a manner that avoids or minimizes adverse effects on the environment and depletion of energy and natural resources to the fullest extent.

Mindful of the type of service the applicant will provide to the residents of West Hawaii, the proposed use will be consistent with the following goals and policies of the General Plan:

Historic Sites

- o Protect and enhance the sites, buildings and objects of significant historical and cultural importance to Hawaii.
- o The County of Hawaii shall encourage the restoration of significant sites on private lands.

There were several Archaeological Inventory Surveys conducted along the Mamalahoa Highway Bypass Road. Inventory surveys conducted by Ogden and previous archaeological studies overlapping the central and southern portion of the corridor (Barrera 1990; Rosendahl and Jensen 1989; and Hammatt et al. 1997), indicate a total of 47 sites were identified within 13 of the total 17 ahupua'a crossed by the road corridor. An additional 15 sites were identified outside the present course of the proposed road project corridor. The sites are located between 125 feet and 1,060 feet above mean sea level with 60 percent of the sites situated between 300 and 400 feet

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above mean sea level in the ahupua'a crossed by the northern portion of the proposed road corridor (e.g. Honalo, Ma'ihī, Kuamo'o, and Kawainui). Roughly half of the sites are interpreted as traditional Hawaiian sites attributable to the pre-Contact and early post-Contact periods. The remaining sites are likely affiliated with non-traditional land use during the post-Contact period. The traditional Hawaiian sites were interpreted as features associated with intensive, dryland agriculture, habitation, and animal husbandry. The sites associated with non-traditional land use include 23 boundary walls, the Kona Sugar Co. railroad trestle and a possible clearing mound.

All 47 including the Kona Sugar Co. railroad trestle site in the proposed road corridor have been evaluated for site significance using the National and State Registers of Historic Places criteria.

The burial grounds for the Kuamo'o Battle Warriors is listed as a National Historic Site. This site will not be affected by the construction of the Mamalahoa Bypass Highway as the burial ground is located makai of the roadway.

For those sites assessed as significant solely for information content, further data collection is recommended. The data recovery and site preservation plan will also include measures to protect known sites of cultural sensitivity. Fencing will be placed along most of the length of the corridor boundaries, with gates at existing and proposed ranch roads to maintain controlled access into those portions. The fencing would provide an additional level of protection of sites of significance located outside the project area to control potential intrusions into areas of sensitivity.

Conditions of approval will be included stating that the applicant fully implement the recommendations of the State Department of Land and Natural Resources, Historic Preservation Division prior to securing of any land alteration permits for the proposed Mamalahoa Highway Bypass Road. The implementation of a mitigation plan will satisfy the SMA objective to "Protect, preserve and where desirable restore significant historic and cultural resources."

Land Use and Open Space

- Protect scenic vistas and view planes from becoming obstructed.

Environmental Quality, Natural Resources and Shoreline

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- Protect and promote the prudent use of Hawaii's unique, fragile, and significant environmental and natural resources.

There are no coastal ecosystems present within the alignment area within the Special Management Area. The Bypass roadway in this area is situated approximately 1,000 feet from the shoreline and at an elevation of about 240 feet above mean sea level. The remainder of the Bypass roadway segment proposed by the applicant would traverse the mauka portion of the Hokuli'a site near the 800-foot elevation. The proposed Mamalahoa Highway Bypass alignment would connect with Ali'i Highway at the southern boundary of the Keauhou Resort area and terminate at the Napo'opo'o Road intersection by tying back into the existing Mamalahoa Highway. The proposed Bypass road corridor of approximately 80 to 120 feet wide, will be initially a two-lane roadway with sufficient right-of-way to accommodate four-lanes, and is intended to divert through traffic from Mamalahoa Highway and relieve the current congestion at peak traffic hours within Kealakekua. Portions of the highway will be visible up slope from existing subdivisions, but the project is largely obstructed from views of those traveling on Kuakini and Mamalahoa Highways. Alteration of the existing topography as part of the project construction is expected to result in exposed rock facs and fills within the roadway corridor. The project will not significantly alter existing view planes in the area, and development of the Mamalahoa Bypass Road will open new vistas to the travelling public thereby complying with the General Plan – to construct a scenic drive from Keauhou above the Kealakekua cliffs to Napo'opo'o. Therefore, the proposed project will not adversely impact any recreational or visual resources to the shoreline and coastal ecosystems.

A "Botanical Survey Report of the Hokukano Lands" (Villages of Hokukano Final EIS) was performed by Evangeline J. Funk, PhD. during November of 1991 and 1999. No proposed or listed candidate of rare, threatened or endangered plant species were found within the project site. The survey found five vegetation types: (A) Prosopis/Mixed Grass Understory, (B) Koa Haole/Prosopis Scrub, (C) Kukui Scrub, (D) Lantana/Schinus Scrub, and (D) Planted Monkeypods. The Prosopis/Mixed Grass Understory, the most common vegetation type within the project site, consist primarily of the Prosopis tree, African grass, buffelgrass, sandbur grass and other grass species which occur from coastal areas to an elevation of about 700 feet. The Koa Haole/Prosopis Scrub is the second most common vegetation type occurring in the central part of the project site. Within this area were found three wili wili trees and the only native plant species, a colony of the native Euphorb and 'Akoko (Chameaesyce celastroides) within an area mauka of Pu'u Ohau at the 470 foot elevation. Within this colony was found a single individual of Maiapilo or Hawaiian

Caper (*Capparis sandwichiana* DC). From approximately the 850 foot elevation to the 1,100 foot elevation are the Kukui Scrub vegetation type consisting of Kukui trees, mulberry, coffee, noni and Kakalaioa (gray and yellow knickers) trees. From about the 1,150-foot elevation to the mauka boundary of the project site is dominated in Lantana/Schinus scrub. Mixed within this area are mango, avocado, guava and papaya trees. The upper elevations, especially its southern areas, are large monkeypod trees.

While no endemic or endangered species of plants were located within the project site, the applicant has noted that the existing flora will be impacted by site preparation activities associated with Mamalahoa Bypass Road. The applicant proposes that to offset the loss of existing vegetation, vegetation will be replaced to create a landscaped environment.

A "Survey of the Avifaunal and Feral Mammals at Hokukano" (Villages of Hokukano Final EIS) was prepared by Phillip L. Bruner in October 1991. According to the survey, existing fauna typically consists of introduced species that are transient in nature. In addition, no unique wildlife habitat was discovered within the project site. While no endemic species of fauna was found, introduced species consisted of mongoose, cardinal, barred dove, mynah bird, golden plover, feral dogs, cats and pigs, and rodents. Endemic birds, such as the short-eared owl or Pueo and the Hawaiian Hawk or I'o may forage within this region.

The applicant acknowledges that development of the project site will disrupt wildlife use of the site. The applicant anticipates that completion of the proposed development will "contribute to increased habitat diversity necessary for the fauna which are present or frequent the area" due to the availability of formal open landscaping associated with the lodge. Efforts will be made to avoid disturbing active nests of 'Io should any be encountered during the project construction. 'Io are known to aggressively defend their nests by calling and flying at intruders. Any hawk acting in this manner would be an indication of a nest nearby.

Thus, the proposed project would have no significant effect on flora and fauna resources.

Economic Uses

- Provide residents with opportunities to improve their quality of life.

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- Economic development and improvement shall be in balance with the physical and social environments of the island of Hawaii.

This project is consistent with the State and County policies governing the Special Management Area, and the County's General Plan. Construction of the proposed highway is intended to reduce congestion on the existing road network and provide adequate new capacity in the Keauhou to Kealahou corridor through the year 2015. Projected traffic conditions for the existing regional roadway network indicated it can no longer adequately serve existing and projected traffic volumes.

Based on the above findings, it is determined that the proposed development will not have any substantial adverse impacts on the surrounding area, nor will its approval be contrary to the objectives and policies of Chapter 205A, HRS, relating to Coastal Zone Management and Rule No. 9 of the Planning Commission relating to the Special Management Area.

Approval of this request is subject to the following conditions. Should any of the foregoing conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

1. The applicant, its successor or assigns shall be responsible for complying with all stated conditions of approval.
2. Drainage improvements shall be constructed in a manner meeting with the approval of the Department of Public Works.
3. A flood study for improvements affecting designated flood hazard areas shall be submitted to the Department of Public Works for review. Should a conditional letter of map revision (CLOMR) be required, the CLOMR shall be obtained from the Federal Emergency Management Agency (FEMA) prior to the approval of construction plans for the Mamalahou Highway Bypass Road or any grading in the flood zone area, whichever comes first, and an application for a letter of map revision shall be filed upon completion of construction.
4. During construction, measures shall be taken to minimize the potential of both fugitive dust and runoff sedimentation. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawaii.

5. An archaeological mitigation and interpretation plan shall be prepared and submitted for approval by the Planning Director, in consultation with the Department of Land and Natural Resources-Historic Preservation Division and Hawaiian community organizations, prior to submitting construction plans. The Plan shall consist of three subplans: (1) an archaeological data recovery plan for the sites to undergo data recovery, (2) a detailed interim protection/preservation plan for the sites to undergo preservation, and (3) an interpretation plan which shall include buffer zones, signage, and long-range preservation concerns which may be submitted at a later date. Approved mitigation measures shall be implemented prior to or in conjunction with any land alteration activity within the Mamalahoa Highway Bypass Road project area.
6. Proposed mitigation treatment (preservation in place or disinternment/reinternment) for burial sites must be approved by the Historic Preservation Division's Hawaii Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Data Recovery Plan and Preservation Plan shall be submitted to the Planning Director for its files prior to submitting plans for any land alteration permits.
7. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
8. An annual progress report shall be submitted to the Planning Director prior to each anniversary date of the approval of this permit. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
9. An initial extension of time for the performance of conditions within the permit may be granted by the Planning Director upon the following circumstances:

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- 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 General Plan or Zoning Code.
- C. Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
- D. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Should you have any questions, please contact Eleanor Mirikitani of the Planning Department West Hawaii Office at 327-3510 or Alice Kawaha of the Planning Department Hilo Office at 961-8288.

Sincerely,



Richard B. Baker, Jr., Chairman
Planning Commission

Loceansidesma00-004PC

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
West Hawaii Office
Office of Planning, CZM Program (w/Background)
Department of Land and Natural Resources, Director/DOT-Highways, Honolulu
Mr. Norman Hayashi
Mr. Jeffrey Darrow
Plan Approval Section
Mr. Richard Humphreys