

CHARMAINE TAVARES  
Mayor

JEFFREY S. HUNT  
Director

KATHLEEN ROSS AOKI  
Deputy Director



COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

December 10, 2009

CERTIFIED MAIL - #7007 2560 0001 7799 7687

Mr. Brennon Morioka, Director  
State Department of Transportation  
869 Punchbowl Street  
Honolulu, Hawaii 96813

Dear Mr. Morioka:

**SUBJECT: SPECIAL MANAGEMENT AREA (SMA) USE PERMIT APPROVAL FOR THE PROPOSED KAWELA BRIDGE REPLACEMENT, MILEPOST 5.110 TO MILEPOST 5.118 OF KAMEHAMEHA V HIGHWAY, AT KAWELA, ISLAND OF MOLOKAI, HAWAII; TMK(S): (2) 5-4-001:023 AND (2) 5-4-001:027 (SM1 2009/0002)**

At its regularly scheduled meeting on September 9, 2009, the Molokai Planning Commission (Commission) conducted a public hearing on the above request. Subsequently, a decision on the item was deferred to the September 28, 2009 meeting and a site visit was requested for the same day, to be scheduled prior to the regularly scheduled meeting. The site visit was placed on the agenda and conducted with a quorum of Commissioners, and at the subsequent September 28, 2009 meeting, the Commission voted to grant approval of the SMA Use Permit application, subject to the following conditions:

**STANDARD CONDITIONS**

1. That construction of the proposed project shall be initiated by **September 30, 2012**. Initiation of construction shall be determined as construction of on-site and/or off-site improvements, issuance of a foundation permit and initiation of construction of the foundation, or issuance of a building permit and initiation of building construction, whichever occurs first. Failure to comply within this **three (3) year** period will automatically terminate this SMA Use Permit unless a time extension is requested no later than sixty (60) days prior to the expiration of said **three (3) year** period. The Planning Director shall review and refer to the Commission a time-extension request, pursuant to Section 12-302-17 SMA Rules for the Commission.

2. That the construction of the project shall be completed **within three (3) years** after the date of its initiation. Failure to complete construction of this project will require unfinished portions of the project to obtain a new SMA Use Permit. A time extension shall be requested no later than sixty (60) days prior to the expiration date.
3. That final construction shall be in substantial accordance with preliminary architectural plans submitted on **March 10, 2009**, to the Department of Planning (Department). Failure to do so may result in revocation of the permit.
4. That appropriate measures shall be taken during construction to mitigate the short-term impacts of the project relative to dust and soil erosion from wind and water, ambient noise levels, and traffic disruptions.
5. That the subject SMA Use Permit shall not be transferred without prior written approval in accordance with Hawaii Revised Statutes (HRS) 205A-26 and Sections 12-302-10 and 12-302-11, of Chapter 302, SMA Rules of the Commission. However, in the event that a contested case hearing preceded issuance of said SMA Use Permit, a public hearing shall be held upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
6. That full compliance with all applicable governmental requirements shall be rendered.
7. That the Applicant shall submit to the Department five (5) copies of a detailed report addressing its compliance with the conditions established with the subject SMA Use Permit. A preliminary report shall be reviewed and approved by the Department prior to issuance of the grading permit or building permit, whichever occurs first. A Final Compliance Report shall be submitted to the Department for review and approval prior to issuance of a Certificate of Occupancy.
8. That water conservation and irrigation measures shall be integrated into the project design and construction in order to conserve water and protect groundwater resources, and that brackish and/or reclaimed water sources should be used, when available, for irrigation and dust control during construction.
9. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SMA Use Permit. Failure to so develop the property may result in the revocation of the permit.
10. That the grading for the project shall comply with the provisions of the grading ordinance. Best Management Practices (BMPs) shall be implemented to the maximum extent practicable to prevent pollutants, including dust and sediment,

from discharging off the project site, particularly into Kawela Stream waters or the adjacent *muliwai* (estuarine pool).

**PROJECT SPECIFIC CONDITIONS**

11. That the Applicant shall be responsible for all required highway traffic management measures, including but not limited to signage and the use of trained traffic control personnel. Said measures shall be conducted at all times when traffic is in the proximity of construction equipment and machinery.
12. That in the event historic resources, including human skeletal remains, are identified during routine construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD), Maui Section, shall be contacted immediately at (808) 243-5169.
13. That a copy of the approved National Pollutant Discharge Elimination System (NPDES) permit shall be filed with the Department and the Department of Public Works and Environmental Management prior to approval of the grading permit.
14. That an appropriate BMPs plan shall be reviewed and approved by the Department of Public Works and Department of Environmental Management. Said plan shall address impacts associated with erosion, contaminants, and construction waste. The approved plan shall be filed with the Department.
15. That construction activities shall be limited to normal working daylight hours and weekdays, and a noise permit shall be obtained from the Department of Health (DOH) per Chapter 11-46, Hawaii Administrative Rules (HAR), Community Noise Control, if required. Mitigative measures shall include the implementation of BMPs to minimize airborne dust and to prevent soil from leaving the site.
16. That all US Army Corps of Engineers and State of Hawaii DOH permitting requirements be met prior to initiation of any grading activities.
17. That a contingency plan be developed prior to initiation of construction and submitted to the Department for review and approval to ensure, in case of heavy rains and flooding, that the highway be closed for no longer than a 24-hour period at any time.
18. That the State Department of Transportation (DOT), Highways Division, develop and implement BMPs for the prevention of transportation of invasive species in any materials removed during construction, as well as any materials removed during future maintenance activities.

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19. That the Applicant, to the extent feasible, allow for the provision of an eight-inch (8") water line to the east side of the bridge in coordination with the County Department of Water Supply (DWS).
20. That a site plan with location and description of staging area be submitted to the Department prior to initiation of construction activities for review and approval.

The conditions of this SMA Use Permit shall be enforced, pursuant to Chapter 302, Section 12-302 et. seq. of the *Special Management Area Rules for the Molokai Planning Commission*.

Further, the Commission adopted the Report and Recommendation prepared by the Department for the **September 9, 2009** meeting, as amended, as the Findings of Fact, Conclusions of Law, and Decision and Order, which are still in preparation and are to follow. You will receive a copy once the Commission has reviewed and signed the document.

Parties to proceedings before the Commission may obtain Judicial Review of Decision and Order issued by the Commission in the manner set forth in Chapter 91-14, HRS.

Thank you for your cooperation and patience. If additional clarification is required, please contact Planning Program Administrator Clayton Yoshida via email at [clayton.yoshida@mauicounty.gov](mailto:clayton.yoshida@mauicounty.gov) or by phone at (808) 270-7517.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey S. Hunt". The signature is stylized with a large, looped "J" and a long, sweeping horizontal line extending to the right.

JEFFREY S. HUNT, AICP  
Planning Director

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xc: Clayton I. Yoshida, AICP, Planning Program Administrator  
Aaron H. Shinmoto, PE, Planning Program Administrator (2)  
John Summers, Planning Program Administrator  
Nancy M. McPherson, Long Range Division  
Nina-Lehua Kawano, Molokai  
Department of Finance, Real Property Tax Division  
Department of Public Works  
Department of Environmental Management  
Department of Water Supply  
Department of Fire and Public Safety  
Police Department  
Department of Transportation  
Department of Health  
State Department of Transportation  
State Department of Health  
DBEDT, State Office of Planning  
DLNR-SHPD  
DLNR-Engineering  
Office of Hawaiian Affairs  
Mich Hirano, AICP, Munekiyo & Hiraga, Inc.  
CZM File  
Project File  
General File

JSH:NMM:vb

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