

## COMMENTS AND QUESTIONS ON SMA MINOR PERMIT REQUEST FOR “PUPUKEA RURAL COMMUNITY COMMERCIAL CENTER”

### Background:

The proposed Hanapohaku development lies in the middle of the famed north shore of Oahu, approximately midway between the towns of Kahuku and Haleiwa. This stretch of the coast consists of a mixture of undeveloped, developed and public beachfront, agricultural land, pockets of housing, and minor commercial activities. It is an area that is much beloved by the people who live there for its simplicity and rural character.

Prior to the developers arrival in 2014, the 2.7 acre lot adjacent to Foodland (the largest commercial activity in the stretch) was a quiet little area with a small surf shop, a single food truck, and two small professional offices. There was no noticeable traffic and no congestion. There were no lights or large signage. There was no music or loud sounds. At night, the area became completely quiet.

This completely changed with the arrival of Hanapohaku. A comparison of photos and video show how dramatic the alteration is. Quickly the area became a carnival-like tourist attraction. There are hordes of people. There is traffic. There are bright lights and loud music. All of this is immediately adjacent to the highway, impossible to ignore.

**This has resulted in a qualitative change to the north shore.** Hanapohaku has bifurcated the region into two segments separated by a commercial hotspot. The net effect is to drive away residents and attract transient visitors.

Now the developers are asking for minor SMA permits to rectify the development they already carried out illegally. This minor permit should not be granted if the net effect is to permit development that should have been prohibited in the first place. **The only possible justification for these permits is for activities that will decrease the existing structures and lessen the negative impact of the illegal development on residents.**

### 1. Function of the Development

The North Shore Sustainable Communities Plan defines a rural community-based commercial center as one that “meet the needs of the surrounding residential communities.” However, the illegal development at Sharks Cove that Hanapohaku has carried out since 2014 has clearly resulted in attracting tourists rather than local residents, which is obvious from the large number of shiny rental cars that are parked in and across the highway from the development. **A requirement for granting the minor SMA permit should be that the planned activities are aimed at improving the property to meet the needs of residents. This in turn requires baseline data on the current usage of the facility and specific plan for bringing the development into compliance with zoning law.**

Data Questions: What percentage of customers at the site are residents? How was this number determined, and for what specific time periods? If these numbers have not been obtained, what are the developers plans to do so in the future? How and when?

### Planning Questions:

How will the proposed activities increase the proportion of residential users? How was your estimate obtained?

### 2. Congestion

The illegal post-2014 development at Sharks Cove has resulted in a large increase in the number of people visiting the site. This contributes to traffic hindrance by pedestrian crossings, potential pollution from toilet use, etc. **A requirement for granting the minor SMA permit should be that the planned activities are aimed at decreasing the congestion. This necessitates baseline data on customer use and demonstration of how the alterations will ameliorate the situation.**

Data Questions: What number of customers visit the site.? How was this number determined, and for what specific times periods? If these numbers have not been obtained, what are the developers plans to do so prior to the minor SMA permit activities? How and when?

Planning Questions: How do the proposed activities reduce congestion. How was your estimate obtained? (Please provide modeling details.)

### 3. Traffic Control

Since the illegal post-2014 development at Sharks Cove there has been an obvious increase in traffic in the area, often resulting in long delays just to get to the stoplight at Pupakea Road. **A requirement for granting the minor SMA permit should be that the planned activities are aimed at decreasing the traffic that has been increased by the illegal development. This necessitates baseline traffic data and quantitative evidence for improvement..**

Data Questions: What number of cars visit the site? How was this number determined, and for what specific times periods? If these numbers have not been obtained, what are the developers plans to do so prior to construction activities.

Planning Questions: How will the proposed activities effect (1) total number of vehicles; (2) throughput; (3) time headway; (4) average and maximal delay period? (Please provide modeling details.)

### 4. Parking Lot

The SMA minor permit request includes permission for an asphalt parking lot. Developers state this is necessary for the amount of traffic they are generating. **This is a classic example of using illegal development as a quasi-rationale for further development.** That is, the developers build a bunch of stuff illegally, then ask for permission to build yet more to satisfy the demand they have generated in violation of the rules and regulations.

Question: If the major SMA permit is not granted (as appears likely based on previous history at this site), will the parking lot be removed? How will the land be restored?

### 5. Process Issues

It is well known, both from multiple articles in the press and from the DPP's publication of multiple violations, that the current mess at Sharks Cove was the result of improperly or unpermitted, illegal activities. In fact, the owners and developers have confessed and apologized for this at public meetings. They have also openly admitted that they have no intent to comply with the clear May 3, 2016 DPP directive that *“all improvements which were authorized by these (prior) approvals must be removed, and the area restored to its pre-approval condition.”*

I asked the owners, at a private meeting at their offices, why **they are flaunting the law.** The answer was simple: **to generate the cash needed to apply for legal permits.**

This raises a serious question of process going forward. If the DPP allows Hanapohaku to obtain *any* permit for development at Sharks Cove at the current point in time, even while they are in violation of DPP regulations, and making money from it, it sends a clear message to other developers: *“The best way to develop on the north shore is to ignore the law and do it yourself... You can always fix it up later.”*

Questions:

If Hanapohaku is exempt from DPP regulations, why should other business owners on the North Shore, or anywhere on O'ahu, comply with DPP zoning rules and regulations?

Given Hanapohaku's disrespect for the community and the City by ignoring DPP rules and regulations thus far, what guaranty does the community and the DPP have that Hanapohaku and its consultants will follow rules and regulations going forward?

Summary and Recommendation:

I recognize that the City and County of Honolulu Department of Planning and Permitting has limited capacity to enforce regulations. It cannot send in bulldozers to rip down illegal development. It cannot seize assets to pay fines. It cannot put people who flaunt the law in jail.

But the DPP has one extremely simple, easy and legal tool to enforce its own rules: the power to permit.

**I strongly urge DPP to not even consider the request for a minor SMA permit until the developers have paid their fines and restored the property to (close to) its original condition.**

Once that simple requirement is met, it will be time to talk about the future of the this area.

Sincerely yours,

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