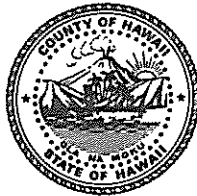


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
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August 15, 1995

Mr. Roy A. Vitousek III
Cades Schutte Fleming & Wright
Hualalai Center, Suite B-303
75-170 Hualalai Road
Kailua-Kona, HI 96740-1737

Dear Mr. Vitousek:

Special Management Area (SMA) Use Permit Assessment
Application (SMAA 95-16)
Special Management Area (SMA) Minor Use Permit No. 32
(SMM 32)
Applicants: Earl E. and Doris J. Bakken
Request: Proposed Implementation of an Anchialine Pond
Management Plan
Tax Map Key: 7-1-02:3; Kiholo Bay, North Kona, Hawaii

This letter is to follow-up on our previous letter to you dated June 16, 1995, wherein it was determined that an SMA Minor Permit would be required to allow the implementation of the proposed anchialine pond management plan and the acceptance and publication of an Environmental Assessment-Negative Declaration for the proposed implementation of the above-mentioned program within the Office of Environmental Quality Control's July 8, 1995, Bulletin, thereby complying with the requirements of Chapter 343, Hawaii Revised Statutes. Upon review of the above-described applications, we are hereby issuing SMA Minor Use Permit No. 32 to allow the implementation of an anchialine pond management plan.

GENERAL INFORMATION

- 1) **Landownership:** The subject property, consisting of approximately 3 acres, is owned by Earl and Doris Bakken.

APPLICANT'S REQUEST

- 2) **Request:** The applicant has submitted an SMA Use Permit Assessment Application to allow the implementation of an anchialine pond management plan for a series of existing anchialine ponds located within the subject property. The proposed anchialine pond management plan, developed by Richard E. Brock, Ph.D. of Environmental Assessment Co., would consist of the following general elements:
- A. Management of the existing anchialine ponds by restricting further construction within the existing pond. Hydrologic modification to the ponds will be permitted only upon the approval by the Chairman of the Board of Land and Natural Resources.
 - B. Restricting activities which may adversely affect the ponds, exclusive of activities proposed under this anchialine pond management plan. Restrict activities would include the disposal of trash, chemical, wastewater or stormwater into the ponds and the feeding of organisms which inhabit the ponds. Also prohibited would be the introduction of aquatic species which currently do not inhabit the ponds.
 - C. Activities which will be permitted include the continued use of the Anchialine Pond No. 1 (second largest pond) as a source of water for domestic use and the use of Anchialine Pond No. 2 (largest pond) for the release of saline water generated by the reverse osmosis water purification system which supplies water to the existing single family dwelling. Routine maintenance of the ponds, such as trash removal and limited excess sediment removal, will be permitted. The program will also allow the continued use of sterile grass carp and awa (milkfish) to control the growth of algae within Anchialine Ponds Nos. 1, 2 & 4.
 - D. Establish five-foot wide buffer zones around the existing ponds as measured from the ponds' water edge at high tide. Activities permitted within the buffer zones would include:
 - 1. Low rock walls to demarcate the boundaries of the ponds or the boundaries of the buffer zones for the purpose of preventing runoff, soil and debris from entering into the ponds;

2. Walkways around and/or over the ponds; and
 3. Plantings of native and/or xerophytic vegetation around the ponds.
- E. Management of activities surrounding the ponds which may have an adverse impact. Activities such as site grading, wastewater disposal, and lighting will be managed to minimize its impact on the ponds.
- 3) **Purpose:** According to the applicant, the anchialine pond management plan *"is a means in which the integrity of the anchialine ponds can be maintained with appropriate checks and balances and supervision by Dr. Richard Brock."* According to the application, the existing ponds have required maintenance to manage the growth of algae and the presence of certain aquatic organisms not native to anchialine ponds, such as aholehole.
 - 4) **Estimated Cost:** Due the nature of the request, the cost of implementing this anchialine pond management plan is not available.

STATE AND COUNTY PLANS

- 5) **The State Land Use District** classification of the subject property and the surrounding area is Conservation.
- 6) **The General Plan Land Use Pattern Allocation Guide (LUPAG)** Map designates the subject area as Conservation. A band of land along the shoreline is designated for Open uses. The General Plan recognizes Kiholo Bay and Kiholo Beach area as areas of natural beauty.
- 7) **County Zoning:** The subject property is zoned Open (O) by the County.
- 8) **SMA:** The subject property is located within the Special Management Area; therefore, this SMA Minor Permit is being issued in satisfaction of the requirements of the SMA.

SITE DESCRIPTION

- 9) **Physical Description:** The subject property is located makai of the Queen Kaahumanu Highway on lands adjacent to Kiholo Bay. The property, consisting of approximately 3 acres, is located within a larger 3,523-acre parcel owned by the State of Hawaii. The makai boundary of the subject property is located at least 25 feet from the shoreline.
- 10) **Existing Uses:** The subject property is currently developed as a homesite, and includes a single family dwelling, separate garage structure, swimming pool, radio tower, tennis courts, four anchialine ponds, and various landscaping elements.
- 11) **Archaeological/Floral/Faunal Resources:** Due to the existing use of the subject property as a single family residential homesite and the extensive improvements associated with the construction of the dwelling and its related improvements, the construction of some of the anchialine ponds, and the extensive landscaping, significant historical sites or features and the presence of endangered species of plants or animals are not anticipated to be located within the subject property.
- 12) **The Flood Insurance Rate Map (FIRM),** prepared by the Federal Emergency Management Agency (FEMA), designates the entire property as being located within an area subject to 100-year frequency floods (Zone AE) and within areas subject to coastal flood inundation (Zone VE).
- 13) **Surrounding Uses:** The subject property, along with 6 other parcels, is located within a larger 3,523-acre parcel owned by the State. All of these lands are located within the State Land Use Conservation District and zoned Open by the County.

INFRASTRUCTURE

- 14) **Access** to the subject property from the Queen Kaahumanu Highway is provided by an non-exclusive perpetual access and utility easement over and across adjoining State lands.

- 15) **Water, electricity, and wastewater disposal** is provided by facilities developed by the applicant. These facilities include a reverse-osmosis system which purifies water from one of the anchialine ponds for consumption and an electricity-generating system powered by propane.

ASSESSMENT

The purpose of Chapter 205A-HRS, and Planning Commission Rule No. 9, 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 island's coastal zone areas. Special controls on development within these areas have been enacted to prevent permanent loss of valuable resources. Upon review of the subject request, the Planning Director finds that the proposed implementation of an anchialine pond management plan are consistent with State and County Special Management Area policies, as outlined below:

- a) **Recreational Resources:** The proposed implementation of an anchialine pond management plan will not interfere with recreational uses of the coastal area since all activities associated with the management plan will be concentrated on the subject property. The subject property is located within a larger 3,523-acre parcel owned by the State. The subject property, its use as a residential homesite, and the implementation of the management plan will not have an adverse effect on recreational resources within the immediate area.
- b) **Historical and Natural Resources:** Due to extensive improvement of the subject property caused by its development into a residential homesite, adverse impacts to historical or natural resources are not anticipated. Nevertheless, a condition will be included to require the notification of the Planning Department should archaeological sites be encountered.
- c) **Scenic and Open Space Resources:** The subject property is located within an area recognized by the General Plan as an example of natural beauty. However, the implementation of an anchialine pond management plan is not anticipated to adversely affect the coastal viewplanes within this area since most of the recommendation are limited to the management of the ponds. Structures allowed under the plan are limited in height and mass, especially when compared to the existing single family dwelling.

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- d) **Coastal Ecosystems:** With the implementation of the anchialine pond management plan, the applicants hope to sustain the biological diversity of these anchialine ponds. The implementation of the plan will assure that these ponds do not become overgrown with algae or plants or inhabited by species of animals not normally found within such ponds. Of exception will be the continued use of grass carps and awa to control alga growth. While the plan will allow for certain structural improvements within the recommended 5-foot wide pond buffer zones, these improvements, balanced with the recommended management objectives and restrictions, will result in an overall improvement to the pond ecosystems.
- e) **Economic Uses:** There are no direct economic benefits to be derived from the implementation of the anchialine pond management plan. The benefits to be obtained are for the applicants and the inhabitants of these anchialine ponds.
- f) **Coastal Hazards:** The entire property is located 100-year frequency flood and is also affected by coastal flooding hazards. All structures to be located within the subject property must be constructed in accordance with the requirements of Chapter 27, Flood Control Code.

DETERMINATION

Based on the preceding assessment, the Planning Director has determined that implementation of an anchialine pond management plan will not be contrary to the State and county policies governing the Special Management Area. The Planning Director hereby approves a Special Management Area Minor Permit, **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 indemnify and hold the County of Hawaii harmless from and against any loss, liability, claim or demand for the property damage, personal injury or death arising out of any act or omission of the applicant, its successors or assigns, officers, employees, contractors and agents under this permit or relating to or connected with the approval of this permit.

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3. The anchialine pond management plan shall be implemented within six (6) months from the date of approval of the Conservation District Use Application No. HA-2092A. This office shall be notified, in writing, upon initial implementation of the plan.
4. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
5. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the Conservation District Use Permit for the implementation of the anchialine pond management plan. The report shall include, but not be limited to, the status of the implementation of the pond management plan and the extent to which the conditions of approval of this permit are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied and the Planning Director acknowledges that further reports are not required.
6. An extension of time for the performance of conditions within the permit 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 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).

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7. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate procedures to revoke the permit.

Please feel free to contact Daryn Arai of my staff at 961-8288 should you have any questions.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

DSA:mjs
File: SMM31
SMM31.dsa

xc: Ms. Donna Kiyosaki, Chief Engineer
Mr. Roy Schaefer, DLNR-OCEA
West Hawaii Office
SMA Section