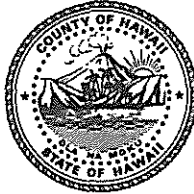


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Norman Olesen
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-9615

August 28, 1995

Mr. Sidney M. Fuke
100 Pauahi Street, Suite 212
Hilo, HI 96720

Dear Mr. Fuke:

Special Management Area (SMA) Use Permit Assessment
Application No. 95-44 (SMAA 95-45)
Special Management Area Minor Use Permit No. 34
Applicant: Tommy Ishimaru
Request: Renovate former Cesspool into Two Rubber-Lined
Fishponds and the Creation of a Temporary Stockpile
Tax Map Key: 2-1-17:33, Waiakea, Keaukaha, North Hilo, Hawaii

We have reviewed your SMA Use Permit Assessment Application for the conversion of an existing abandoned cesspool located on the subject property into two 250 square foot fishponds. The application also requests the establishment of a temporary stockpile to accommodate roughly 200 cubic yards of excavated material. Your submittal is in response to our previous letter to Mr. Ishimaru dated March 31, 1995, informing him of the need to secure proper approvals from this office before proceeding with the completion of the above-mentioned improvements. Upon review of the above-described application, we are hereby issuing SMA Minor Use Permit No. 34 to allow the creation of two rubber-lined pools and a temporary stockpile.

GENERAL INFORMATION

1. **Relevant Previous Approvals:** On May 20, 1985, the Planning Director issued Special Management Area Minor Use Permit No. 85-21 to allow the applicant to construct a 55-foot by 60-foot wide fishpond on the subject property. The pond, which is approximately 4 feet deep, obtains its water through tidal fluctuations. However, there are no direct connections between the fishpond and the ocean.

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APPLICANT'S REQUEST

2. The applicant proposes the following improvements on the subject property:
 - a. Collapse an existing abandoned cesspool and create an approximately 250 square foot, rubber-lined fishpond at a maximum depth of 24 inches.
 - b. Construct a similar fishpond adjacent to the west of the fishpond utilizing the collapsed cesspool.
 - c. Water for the proposed fishponds will utilize water from an existing fishpond approved under Special Management Area Minor Use Permit No. 85-21 and issued on May 20, 1985.
 - d. Establish a temporary stockpile of excavated material obtained during the installation of a sewer lateral on the subject property and the construction of the proposed fishponds. Approximately 200 cubic yards of material will be stockpiled.
 - e. Place approximately 300 cubic yards of fill over the remainder of the subject property. Most, if not all of the fill will utilize the stockpiled fill.
- 3) **Estimated Cost:** The proposed improvements are anticipated to cost \$5,000.

STATE AND COUNTY PLANS

- 4) **The State Land Use District** classification of the subject property is Urban.
- 5) **The General Plan Land Use Pattern Allocation Guide (LUPAG)** Map designates the subject area as Low Density Urban.
- 6) **County Zoning:** The subject property is zoned Single Family Residential-10,000 square feet by the County.
- 7) **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

- 8) **Physical Description:** The subject property is located on the makai side of Kalaniana'ole Avenue approximately one-half mile east of Lelewi Beach Park. The subject property, consisting of approximately 15,000 square feet, is roughly rectangular in shape with an average width of approximately 80 feet and an average depth of approximately 195 feet. The shoreline is located approximately 100 feet from the subject property's makai boundary.
- 9) **Existing Uses:** The subject property is currently developed for single family residential use. As previously mentioned, a single family dwelling is located within the subject property as well as an existing fishpond approved under Special Management Area Minor Use Permit No. 85-21.
- 10) **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, fishpond and its related improvements, 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.
- 11) **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 coastal flood inundation (Zone VE).
- 12) **Surrounding Uses:** Surrounding uses consist of single family residential uses on lands zoned RS-10. Located immediately makai of the subject property is an unimproved portion of the County's Lelewi Beach Park complex, which is located on lands zoned Open (O). Lateral shoreline access is provided by this portion of Lelewi Beach Park.

INFRASTRUCTURE

- 13) **Access** to the subject property is provided by Kalaniana'ole Avenue, a County-maintained roadway.
- 14) **Water, electricity, and wastewater disposal** is already provided to the subject property.

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 construction of two rubber-lined fishponds and a temporary stockpile within the subject property are consistent with State and County Special Management Area policies, as outlined below:

- a) **Recreational Resources:** The proposed improvements will not interfere with recreational uses of the coastal area since all activities associated with said improvements will be concentrated on the subject property. Located immediately makai of the subject property are lands which are part of the County's Leleiwi Beach Park complex. This lands will not be impacted by the proposed improvements and will continue to provide a recreational resource and lateral shoreline public access to coastal areas.
- 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 not located within an area recognized by the General Plan as an example of natural beauty. The construction of two fishponds and the establishment of a temporary stockpile are not anticipated to adversely affect the coastal viewplanes within this area. The property has already been developed with a single family dwelling and a much larger fishpond. The addition of two additional fishponds will not severely impact coastal viewplanes.
- d) **Coastal Ecosystems:** The subject property is located approximately 100 feet from the shoreline. The construction of the two fishponds will utilize a rubber lining. Such a lining will prevent direct interaction between the fishpond and the subterranean waters which supplies the larger existing

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fishpond with water. Nevertheless, since water will be circulated between the existing and proposed fishponds, the applicant will take necessary precautions to ensure that chemical and other pollutants do not invade these ponds.

- e) **Economic Uses:** There are no direct economic benefits to be derived from the construction of the fishponds and the temporary stockpiling of material. The benefits to be derived are for the sole enjoyment of the landowner.
- f) **Coastal Hazards:** The entire property is 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 the construction of two fishponds and the establishment of a temporary stockpile within the subject property 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.
3. The construction of the two 250± square foot fishponds shall be completed within three (3) years from the date of approval of this permit. The temporary stockpiling of excavated material shall cease coincidentally with the completion of the fishponds.

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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 proposed improvements 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).
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.

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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: SMM34
SMM34.dsa

xc: Ms. Donna Kiyosaki, Chief Engineer
SMA Section