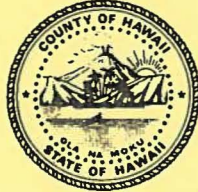


Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

December 15, 1999

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

Mr. James R. Bell
Belt Collins Hawaii, Ltd.
680 Ala Moana Blvd., First Floor
Honolulu, HI 96813

Dear Mr. Bell:


Special Management Area Use Permit Assessment Application No. 99-42
Special Management Area Minor Use Permit No. 84
Applicant: Belt Collins Hawaii, Ltd. on behalf of Kahua Ranch Limited
Approved Activity: Development of a 7-lot Subdivision and Related Improvements
TMK: 5-9-01: 7; Kahualilii & Waiaka, North Kohala, Hawaii

We are in receipt of the above-described application on November 2, 1999. Upon careful review, we find that the proposed development of a 7-lot subdivision and its related improvements on the subject property will not have a significant adverse impact to coastal resources nor would it be contrary to the policies and objectives of the Special Management Area. Therefore, pursuant to County Planning Commission SMA Rule 9-10E, please find enclosed SMA Minor Use Permit No. to allow the development of the proposed subdivision.

The applicant is required to comply with the terms and conditions contained within the permit.

Please contact either Norman Hayashi or Earl Lucero at 961-8288 for any matters concerning this SMA Minor Permit.

Sincerely,


VIRGINIA GOLDSTEIN
Planning Director

DSA: pak
f:\wp60\czm\smaa\1998\SMMA 9942.dsa

Enclosure: SMA Minor Permit No. 84

Resp to 9940
DEC 21 1999

Mr. James R. Bell
Belt Collins Hawaii, Ltd.
Page 2
December 15, 1999

c w/ SMM84: Planning Commission
Mr. Robert Yanabu, Chief Engineer
West Hawaii Office

Stephen K. Yamashiro
Mayor



Virginia Goldstein
Director

Russell Kokubun
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

25 Aupuni Street, Room 109 • Hilo, Hawaii 96720-4252
(808) 961-8288 • Fax (808) 961-8742

SPECIAL MANAGEMENT AREA MINOR USE PERMIT

NO. 84

Approved Development (describe in detail):

To allow the development of a 7-lot subdivision consisting of parcels ranging in size from 5 to approximately 27.7 acres. In addition to the proposed subdivision improvements, the applicant proposes the establishment of a mauka-makai and a lateral shoreline public access easement within the proposed development. A 100-foot wide structural setback easement will also be established along those parcels fronting the Akoni Pule Highway.

Applicant's Name: Belt Collins Hawaii, Inc. on behalf of Kahua Ranch Limited

TMK: 5-9-01: 7; por. of Kahualiilii & Waiaka, North Kohala, Hawaii **Land Area:** 63.8 acres

Compliance with Objectives and Policies of Chapter 205-A, Hawaii Revised Statutes regarding the Special Management Area

Check all objectives and policies found to be consistent with proposed development.
Issuance of SMA Minor Use Permit requires that activity be consistent with all objectives & policies.

- ☒ Development will not have any significant adverse environmental or ecological effect, except as such adverse effect is minimized to the extent practicable 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 the elimination of planning options.
- ☒ The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

**Compliance with Objectives and Policies of Chapter 205-A, Hawaii Revised Statutes
regarding the Special Management Area**

Check all objectives and policies found to be consistent with proposed development.

Page 2 Issuance of SMA Minor Use Permit requires that activity be consistent with all objectives & policies.

- ☒ The proposed development does not conflict with the following objectives of Chapter 205A, Hawaii Revised Statutes to:
 - ☒ Provide coastal recreational opportunities accessible to the public.
 - ☒ Protect, preserve, and where desirable, restore those natural and man-made historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture.
 - ☒ Protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open space resources.
 - ☒ Protect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems.
 - ☒ Provide public or private facilities and improvements important to the State's economy in suitable locations.
 - ☒ Reduce hazard to life and property from tsunamis, storm waves, stream flooding, erosion, subsidence and pollution.
 - ☒ Improve the development review process, communication, and public participation in the management of coastal resources and hazards.
 - ☒ Stimulate public awareness, education, and participation in coastal management.
 - ☒ Protect beaches for public use and recreation.
- ☒ The proposed development is consistent with the following policies of Chapter 205A, Hawaii Revised Statutes relating to:
 - ☒ Recreational resources
 - ☒ Historic resources
 - ☒ Scenic and Open Space resources
 - ☒ Coastal Ecosystems
 - ☒ Economic Uses
 - ☒ Coastal Hazards
 - ☒ Managing Development
 - ☒ Public Participation
 - ☒ Beach Protection
- ☒ The proposed development conforms with the requirements of Chapter 343, Hawaii Revised Statutes regarding Environmental Impact Statements.

Conditions of Approval

Page 3

1. The applicant(s), its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. The development of the proposed subdivision and all of its related improvements shall be completed within 5 years from the date of issuance of this permit.
3. The applicant shall submit a shoreline public access plan for the project site, for the review and approval by the Planning Director, prior to or in conjunction with the filing of a subdivision application for the proposed development. The shoreline public access plan shall include, but not necessarily be limited to, the provision of a mauka-makai and lateral shoreline public access pedestrian easements within the project site. These shoreline public access pedestrian easements shall be reflected on the final plat maps to be submitted to the Planning Department for subdivision review. Prior to the issuance of Final Subdivision Approval, the Planning Department must approve the draft recorded instruments conveying public access over the approved shoreline public access pedestrian easements to the County of Hawaii. A copy of the recorded shoreline public pedestrian easements shall be submitted to the Planning Department within 6 months from the date of issuance of Final Subdivision Approval.
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 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).
6. 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.

APPROVAL:



VIRGINIA GOLDSTEIN
Planning Director

DEC 21 1999

Date

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii
PLANNING DEPARTMENT

May 7, 2004

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

Mr. James R. Bell
Belt Collins Hawaii, Ltd.
2153 North King Street, Suite 200
Honolulu, Hawaii 96819-4554

Dear Mr. Bell:

Subject: Special Management Area Minor Use Permit No. 84 (SMM 84)
Request for Time Extension to Comply with Condition No. 2
Tax Map Key: 5-9-001:007

This is in response to your letter, dated April 14, 2004, in which you requested an additional five-year extension of time to comply with Condition No. 2 of the subject permit. Condition No. 2 required completion of the proposed subdivision and all of its related improvements within 5 years from the date of issuance of SMAA 84.

Your letter states that your client is still trying to resolve easement issues relating to utility improvements within the Akoni Pule Highway right-of-way and compliance with all the requirements of Kohala Ranch Water Company for the off-site water tank and water lines within the highway.

Inasmuch as surety documents to complete the construction improvements within the subdivision were found acceptable by Hawaii County; final approval for subdivision of the subject property was granted on December 26, 2001. To date, two time extensions have been granted to the original agreement, dated November 14, 2001, between your client and the County of Hawaii regarding the completion of the construction of utilities and improvements in the subdivision. The latest time extensions to the Subdivision Agreement and the Irrevocable Set Aside Letter from First Hawaiian Bank expire on May 1, 2005.

In view of the above, your request for an extension of time to satisfy Condition No. 2 of SMAA 84 is granted for an additional five (5) years to December 21, 2009. Any requests for an

Hawai'i County is an equal opportunity provider and employer.

MAY 11 2004 055934
#51019

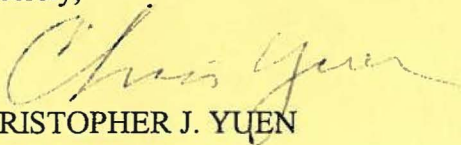
Mr. James R. Bell
Belt Collins Hawaii, Ltd.
Page 2
May 7, 2004

additional extension beyond December 21, 2009 will be considered upon the following:

1. An extended expiration date granted for the Irrevocable Set Aside Letter;
2. County of Hawaii approval of additional extensions to the Subdivision Agreement;
and
3. The applicant's ability to demonstrate that the non-performance of Condition No. 2 of SMAA 84 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.

Should you have questions, please feel welcome to contact Larry Brown or Esther Imamura of my staff at 961-8288.

Sincerely,



CHRISTOPHER J. YUEN
Planning Director

LMB:pak

P:\WPWIN60\CZM\Letters\Bell-SMM84timeextension.doc

xc: SUB 7495