Harry Kim
Mayor

Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

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

May 27, 2004

David S. De Luz Sr.
811 Kanoelehua Ave.
Hilo, Hawaii 96720

Dear Mr. De Luz:

Special Management Area Assessment Application No. 04-035 (SMAA 04-35)
Special Management Area Minor Permit No. 159 (SMM 159)

Project:	**After-the-Fact Land Clearing**
Applicant:	**Waiakea LG Project, LP**
Land Owner:	**Waiakea LG Project, LP**
Location:	**Waiakea, South Hilo, Hawaii**
TMK:	**(3) 2-2-030:017**

By this letter we are transmitting the referenced SMA Minor Permit No. 159, which is approved, subject to conditions, for the after-the-fact land-clearing activities conducted on the subject property, which were the basis of our Notice of Violation letter dated April 8, 2004.

The after-the-fact land clearing activities included the cutting down and removal of nearly all trees and underbrush so as to remove potential hazards to the public and to allow for better management of the property.

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

Sincerely,

CHRISTOPHER J. YUEN
Planning Director

LMB:lmb
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Enclosures: SMM No. 159
Department of Public Works May 19, 2004 Memo

xc: Long Range Planning - Ms. Susan Gagorik
Mr. Robert Usagawa – Zoning Inspector

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Special Management Area Minor Permit No. 159

Project:	**After-the-Fact Land Clearing**
Applicants:	**Waiakea LG Project, LP**
Owners:	**Waiakea LG Project, LP**
Location:	**Waiakea, South Hilo, Hawaii, Island of Hawaii**
TMK:	**(3) 2-2-030:017** **Land Area: 4.4056 acres**

Applicant's Request

1. **Project Description:**

   The after-the-fact activities include cutting down and removal of trees and underbrush.

2. **Purpose of Project:**

   To remove potential liability hazards due to tree branches overhanging public rights-of-way and neighboring properties and to facilitate better management of the property.

3. **Project Valuation:** $40,000.00.

4. **Determination:**

   According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(ii) relating to the Special Management Area, the grading, removing, dredging, mining, or extraction of any materials is defined as "development." Therefore, the proposed project requires a SMA Minor Permit.

State and County Plans

1. **State Land Use District:** The subject property is designated Urban by the State Land Use Commission.
2. **General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the project site as High Density Urban. This allows for commercial, multiple residential and related services (general and office commercial; multiple residential-up to 87 units per acre).
3. **County Zoning:** The subject property is zoned Resort-Hotel (V-.75) and General Commercial (CG-7.5) by the County.
4. **Special Management Area:** The subject property is located in the SMA.
5. **Flood Zone:** According to the Flood Insurance Rate Map (FIRM), the subject property is located in an area designated as Zone X, which is outside the 500-year floodplain.

Compliance with Objectives and Policies of Chapter 205A, Hawaii Revised Statutes (HRS), Regarding the Special Management Area

The project site is not a shoreline property. Therefore, the proposed improvements will not affect the shoreline recreational resources available to the public.

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

The proposed development is consistent with the following objectives and 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 the Zoning Code.

☒ The proposed development does not conflict with the following objectives of Chapter 205A, HRS, 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, 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 tsunami, 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.

☒ Promote the protection, use, and development of marine and coastal resources to assure their sustainability.

☒ The proposed development is consistent with the following policies of Chapter 205A, HRS, relating to:

- ☒ Recreational Resources
- ☒ Historic Resources
- ☒ Scenic and Open Space Resources
- ☒ Coastal Ecosystems
- ☒ Economic Uses
- ☒ Coastal Hazards
- ☒ Managing Development
- ☒ Public Participation

☒ Beach Protection

☒ Marine Resources

☒ The proposed development conforms to the requirements of Chapter 343, HRS, Environmental Impact Statements.

Findings

As discussed above, the proposed 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.

The proposed development is consistent with the Hawaii County General Plan and Zoning Code.

The proposed development is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The Department of Public Works – Engineering Division (DPW-ED) has reviewed the proposed project for compliance with Chapter 27, Flood Control, of the Hawaii County Code and has no objections. A copy of the DPW-ED comments memo is enclosed.

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 159** is hereby approved to allow the after-the-fact land clearing activities on the subject property.

Conditions of Approval

The Planning Director has approved **SMA Minor Permit No. 159 subject to the following conditions:**

1. The applicant, its successors or assigns shall be responsible for complying with all stated conditions of approval.
2. Applicant shall secure all necessary approvals and permits from other affected federal, state, and county agencies as necessary to comply with all applicable laws and regulations.
3. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings, or wall 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 he finds that sufficient mitigative measures have been taken.
4. The applicant shall comply with all applicable requirements of the State of Hawaii-Department of Health and the Hawaii County-Department of Public Works and applicable requirements of other affected agencies.

APPROVED:

CHRISTOPHER J. YUEN
Planning Director

5/27/04
Date

DEPARTMENT OF PUBLIC WORKS
COUNTY OF HAWAII
HILO, HAWAII

DATE: May 19, 2004

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PLANNING DEPARTMENT
COUNTY OF HAWAII

Memorandum

TO: Christopher J. Yuen, Planning Director

FROM: for Department of Public Works

SUBJECT: SMA USE PERMIT ASSESSMENT APPLICATION NO. 04-35
Applicant: Waiakea LG Project, LP
Owner: Waiakea LG Project, LP
Request: After-the-Fact Land Clearing
TMK: 2-2-30: 017

We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated May 18, 2004 and have no objections to the request.

The subject parcel is in an area designated as Zone X on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone X is an area determined to be outside the 500-year floodplain.

Questions may be referred to Kelly Gomes of our Engineering Division at ext. 8327.

KG