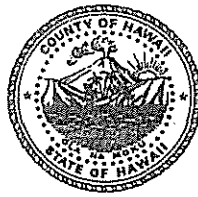


Harry Kim
Mayor



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

November 12, 2004

Robert Torbohn
RR2, Box 4010
Pahoa, Hawaii 96778

Dear Mr. & Mrs. Welsh:

Special Management Area Use Permit Assessment Application (SMAA 04-101)

Special Management Area (SMA) Minor Permit No. 170 (SMM 170)

Applicant: Robert Torbohn

Landowner: Gay Dawn Torbohn

Project: After-the-Fact Grubbing, Tree Cutting & Filling

Tax Map Key: (3) 1-4-068:049

By this letter we are transmitting the referenced SMA Minor Permit No. 170, which is approved, subject to conditions, for the after-the-fact grubbing, tree cutting and filling with red cinder on the subject property.

We understand that you also intend to plant a stand of bamboo along the rear of the subject property. Pursuant to §9-4(10)B(viii) of the Planning Commission Rules of Practice and Procedure, the use of any land for the purpose of cultivating, planting, growing, and harvesting plants, crops, trees, may be exempt from the definition of "development." Therefore, the proposed planting of a bamboo stand is exempt from the definition of "development" and is not subject to any further review under the SMA guidelines.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Yuen", written over the printed name.

CHRISTOPHER J. YUEN
Planning Director

LMB:lmb

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Stephen P. & Rae S. Welsh

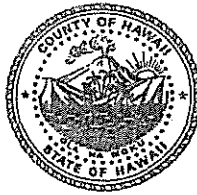
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October 29, 2004

Encl: SMM 170

xc: Ms. Susan Gagorik – Long Range Planning
Mr. Robert Usagawa – Zoning Inspector
Mr. Norman Hayashi – Planning Commission, w/encl.

Harry Kim
Mayor



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Special Management Area Minor Permit No. 170

Project: After-the-Fact Grubbing, Tree Cutting & Filling
Applicant: Robert Torbohn
Land Owner: Gay Dawn Torbohn
Location: Kapoho Vacationland, Puna, Island & County of Hawaii, Hawaii
TMK: (3) 1-4-068:049 Lot 61

Applicant's Request

1. Project Description:

Activities include after-the-fact grubbing, tree cutting and filling with red cinder on the subject lot.

2. Purpose of Project:

To clean up to the lot and prepare for the possible future construction of a dwelling.

3. Project Valuation: \$3,000.00

4. Determination:

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(A)(i) and (ii) relating to the Special Management Area, the placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste and the grading, removing, dredging, mining, or extraction of any materials, are defined as "development." Therefore, the after-the-fact grubbing, tree cutting and placement of red cinder on the subject property 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 (SLU) Commission.
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates various portions of the subject property for Low Density Urban uses.
- 3. County Zoning:** The subject property is zoned Single-Family Residential (RS-10) by the County of Hawaii.
- 4. Special Management Area:** The subject property is located in the SMA.

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

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 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, regarding 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. The after-the-fact activities are not contrary to the Zoning Code.

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

The estimated project cost of approximately \$3,000.00 is not in excess of \$125,000.

The Department of Public Works – Engineering Division submitted the following comments, dated November 5, 2004, regarding the pending Use Permit application.

“We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated November 1, 2004 and have no objections to the request.

The subject parcel is located within Flood Zone AE as designated by the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). Zone AE is the Special Flood Hazard Area inundated by the 100-year flood where base flood elevations have been determined.

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

Pursuant to Planning Commission Rule Section 9-10(E), **Special Management Area Minor Permit No. 170** is hereby approved to allow for the after-the-fact grubbing, tree cutting and filling with red cinder on the subject lot, subject to the applicant’s compliance with the conditions of approval as specified below.

Conditions of Approval

The Planning Director has approved SMA Minor Permit No. 170 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 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.
3. All green-waste shall be removed from the property and properly disposed of according to the Department of Environmental Management (DEM) –Solid Waste Division requirements.
4. No further grubbing, tree cutting or land altering activities shall occur without first securing all necessary federal, state, and/or county approvals.
5. An extension of time for the performance of the conditions contained herein 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 of not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended up to one additional year).
6. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director shall initiate procedures to revoke the permit.

APPROVED:


CHRISTOPHER J. YUEN
Planning Director

November 12, 2004
Date