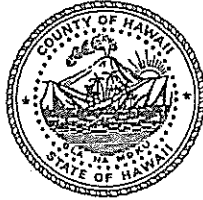


Harry Kim  
Mayor



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 29, 2004

Mr. Clarence F. Turley III  
34-1236 Mamalahoa Hwy  
Ninole, Hawaii 96773

Dear Mr. Turley:

**Special Management Area Use Permit Assessment Application (SMAA 04-110)**  
**Special Management Area (SMA) Minor Permit No. 172 (SMM 172)**

**Applicant: Clarence F. Turley III**

**Landowners: Clarence F. Turley III**

**Project: Construction of an Addition Farm Dwelling**

**Tax Map Key: (3) 3-4-003:056**

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By this letter we are transmitting the referenced SMA Minor Permit No. 172, which is approved, subject to conditions, for the construction of a second dwelling unit (additional farm dwelling) and related improvements on the subject property

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 black ink, appearing to read "Chris Yuen", is written over the word "Sincerely,".

CHRISTOPHER J. YUEN  
Planning Director

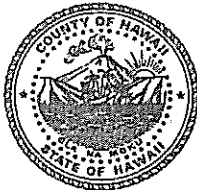
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Encl: SMM 172

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

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#### Special Management Area Minor Permit No. 172

**Project:** Additional Farm Dwelling  
**Applicant:** Clarence F. Turley III  
**Land Owner:** Clarence F. Turley III  
**Location:** Pohakupuka, North Hilo, Island & County of Hawaii, Hawaii  
**TMK:** (3) 3-4-003:056 Lot 4

#### Applicant's Request

**1. Project Description:**

The applicant proposes construct a second dwelling (additional farm dwelling) and related improvements on approximately 1,000 square feet of land located in the north corner of the subject property.

**2. Purpose of Project:**

Mr. Marty Atwood and his family are intended to occupy the proposed additional farm dwelling while they manage the ongoing agricultural activities on the property.

**3. Project Valuation:** \$50,000.00

**4. Determination:**

According to Chapter 205A-22, HRS, and Planning Commission Rule No. 9-4(10)(B)(i) relating to the Special Management Area, the construction of a single-family residence that is not part of a larger development, is not defined as "development." However, the Planning Director has determined that the construction of additional dwellings after the first dwelling on a lot does constitute a larger development. Therefore, the proposed additional farm dwelling requires a SMA Minor Permit.

#### State and County Plans

- 1. State Land Use District:** Most of the subject property is designated Agricultural by the State Land Use (SLU) Commission. However, a narrow band of the property along the shoreline is designated Conservation
- 2. General Plan:** The Hawaii County General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates various portions of the subject property for Open Intensive Agriculture and Extensive Agriculture uses.

3. **County Zoning:** The area of the subject property outside the SLU Conservation district is zoned Agricultural (A-20-a) 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 Zoning Code allows for additional farm dwellings for Agricultural zoned properties that are situated in the SLU Agricultural district.

The proposed additional farm dwelling is to be constructed approximately 80 feet mauka of the makai property line, which is situated approximately 15 feet makai of the approximately 200-foot high seacliff. Therefore, the proposed development is determined to be sufficiently inland from the minimum 40-foot shoreline setback area and is consistent with the objectives, policies, and SMA guidelines of Chapter 205A, HRS.

The estimated project cost of approximately \$50,000.00 is not in excess of \$125,000.

The Department of Public Works – Engineering Division submitted the following comments, dated November 22, 2004, regarding the SMAA 04-110.

*We have reviewed the subject application for compliance with Chapter 27, Flood Control, forwarded by your memo dated November 16, 2004 and have no objections to the request.*

*The subject parcel is in an area that is not mapped by the Federal Emergency Management Agency (FEMA) and is designated as "minimal tsunami inundation."*

*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. 172** is hereby approved to allow for the construction of a second dwelling (additional farm dwelling) on the subject property, subject to the applicant's compliance with the conditions of approval as specified below.

<b>Conditions of Approval</b>
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The Planning Director has approved **SMA Minor Permit No. 172** 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. Applicant shall submit an application for an Additional Farm Dwelling Agreement to the Planning Department within 60 days of the approval date of this SMA Minor Permit.
4. Approval of this permit is based on the applicant's representation that the total cost/fair market value of the proposed improvements are projected to not exceed \$125,000. Therefore, the estimated project valuation for the issuance of the building permit shall not exceed 125,000. In the event that the project valuation used to determine the building permit fee exceeds \$125,000, this SMA Minor Permit shall not be valid and the applicant shall be required to secure a SMA Use Permit from the Planning Commission.
5. Applicant shall secure written confirmation from the State of Hawaii, Department of Land and Natural Resources that the proposed development is outside the SLU Conservation district. A copy of such written confirmation shall be included with the applicant's application for an Additional Farm Dwelling Agreement.
6. Applicant shall erect a construction barrier from the west property line for a distance of not less than 150 feet along the seacliff and not less than 40 feet mauka of the top of the seacliff. This construction barrier shall meet with the approval of the Planning Department and shall be erected prior to any land altering or construction activity and shall remain in place until final inspection is issued to close the building permit.
7. No land altering activities or any construction activities related to the proposed project shall occur makai of the referenced construction barrier without first securing a prior Determination of Minor Structure or Minor Activity from the Planning Director or a Shoreline Setback Variance from the Planning Commission.
8. Final inspection for the building permit issued to construct the additional farm dwelling shall be secured within two (2) years from the approval date of the Additional Farm Dwelling Agreement.

9. 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).
10. 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

10/17/04  
Date